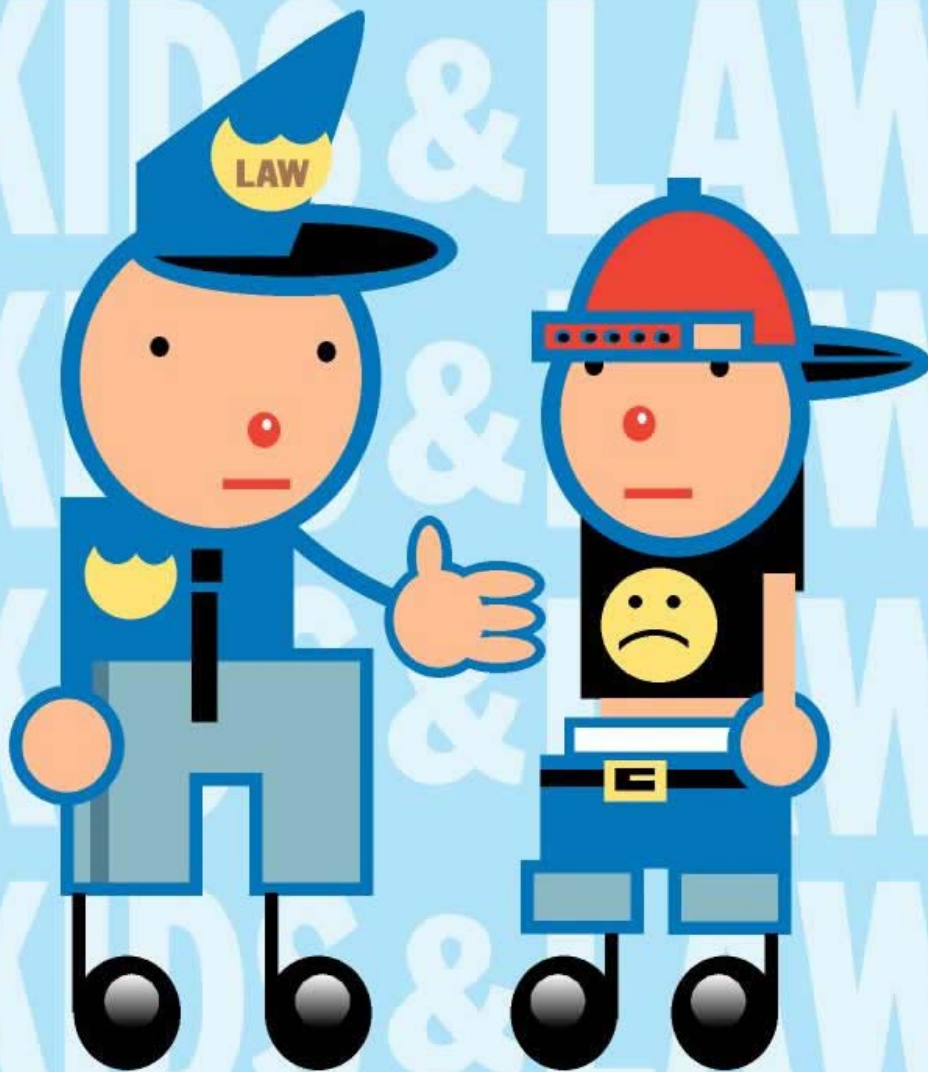


# KIDS & THE LAW

**An A-to-Z Guide For Parents**



Funded by a generous grant from The Foundation of the State Bar of California

# AN INTRODUCTION

*(Updated 2003)*

## Why This Booklet?

In an effort to better understand what drives young people to break the law and who might most influence their behavior, The State Bar of California commissioned the Charlton Research Company in 1996 to conduct a survey of 600 California youth between 10 and 14 years of age. Among the findings of this survey, it was discovered that:

- Almost all 10- to 14-year-olds know something about the most serious laws like stealing and drugs, yet a significant number of children do not believe it is against the law to break curfew (36 percent), "beat up" someone (31 percent), hit a family member (17 percent), skip school (23 percent) or break into someone's locker (17 percent).
- Of the youngsters surveyed who felt they knew something about the law, close to half stated that they learn about the law from school, about half as many learned the law from television, and nearly one in seven kids stated they learned the law from their parents.
- While school is a primary source of information about the law for many young people, the majority of students turn to their parents when trying to determine what is against the law (68 percent) or when they have a problem (57 percent).

Researchers were not surprised by the findings that show that many young people get their legal knowledge at school. In fact, schools have been working with organizations like The State Bar of California over the past 20 years to develop and implement law-related education programs in the classroom. But the survey also revealed a need for basic legal information that is geared for the parents of these students and is relevant to their roles and duties.

It is with this particular need in mind that The State Bar of California produced this booklet. It is this organization's hope that, as a result, parents will now be better equipped to talk to their kids about the law, encouraging our youth to work constructively with the law as productive citizens of this state.

## How To Use This Booklet

This booklet has been written in an easy-to-read, user-friendly format. It can be read by parents or their children, but is primarily intended for parents. It also can be helpful to teachers, social workers and other professionals who care for, or work with, young people in California. Subjects are set out in a dictionary-type format with cross-references to other subject areas when appropriate. A glossary is included to help demystify some legal terms that you might come across when dealing with the law. To help you identify the names and types of laws that define your child's rights and responsibilities, we have referenced the specific laws and code sections with symbols, such as *a*<sup>1</sup>. The symbol and symbol number directs you to a listing of the statutes and codes, by chapter, at the end of the booklet.

**This booklet, however, is not intended to substitute for the advice of an attorney. Therefore, when a specific problem exists within your family or with your child, it is advisable to consult with an attorney.**

## *the age of majority*

The Age of Majority is a term used by lawyers to describe the time in life after which a person is legally no longer considered a child. In essence, it is an arbitrary time when a child becomes an adult in the eyes of the law. Until fairly recently, the age of majority was set at the age of 21 in most states. Following the ratification of the Twenty-sixth Amendment to the United States Constitution giving 18-year-olds the right to vote in federal elections, all but a few states lowered their age of majority to 18, including California.<sup>al</sup>

At the age of majority, minors acquire the right to:

- Enter into binding contracts.
- Buy or sell property, including real estate and stock.
- Marry without the written consent of a parent or guardian and a judge.
- Sue or be sued in his or her own name (except in a personal injury lawsuit).
- Compromise, settle or arbitrate a claim.
- Make or revoke a will.
- Inherit property outright.
- Vote in state and local elections.
- Consent to all types of medical treatment.
- Join the military without parental consent.

This does not mean that once your son reaches the age of majority, he gains "all" of the rights and privileges available to adults. Some rights and responsibilities may come at an earlier age, while others come later, depending on the type of conduct or activity. For example, a California resident who wants a driver's license may be treated as an adult at age 16 (see *Cars, Kids, and Traffic Laws*), but for purposes of purchasing alcoholic beverages, he may not reach adulthood until the age of 21. So, what the age of majority has really come to mean is that point when an individual is treated as an adult for "most" purposes.

Attaining majority, however, also brings with it some losses. These losses generally correlate with the rights that children are given in order to protect them as children -- for example, the right to their parents' support, care, and shelter (see *Parents' Rights and Responsibilities*), their right to treatment within the juvenile court system (see *Juvenile Court*), and their protection against exploitation and harmful or dangerous conditions of employment under child labor laws (see *Work, Work Permits and Taxes*). **Note:** An exception to the rule that your child must wait until she becomes 18 before acquiring the rights and obligations of an adult occurs when she has been emancipated. (To understand how this might occur, as well as its legal consequences, see *Emancipation*.)

## *alcohol and kids*

Believe it or not, there are approximately three million youngsters in the United States who have a serious drinking problem, and of all kids who start drinking, one in ten becomes an alcoholic. The minimum age for drinking in California is 21. <sup>a2</sup> This means that providing alcoholic beverages to anyone under that age is prohibited. In California, an alcoholic beverage is any beverage that has at least one half of one percent alcohol.



### **1. alcohol and kids**

Persons under 21 are prohibited from possessing or drinking alcohol in a public place, including state highways or in and around schools. <sup>a3</sup> Minors also must abide by city and county ordinances that prohibit all persons from consuming alcoholic beverages in public parks or recreation areas. Anyone, adult or minor, who possesses an open container of alcohol in a prohibited area is guilty of an infraction. <sup>a4</sup>

Also, with some exceptions, persons under the age of 21 are prohibited from being in bars or other establishments where liquor is being served. The law also makes it illegal to possess false identification or use a fake I.D. to purchase (or attempt to purchase) alcohol or to enter an establishment where alcohol is being served. <sup>a5</sup> Although it is legal for persons under 21 to be present in a home where adults over 21 are consuming alcohol, it is illegal to provide alcohol to those under 21. Parents and others providing the alcohol can be held criminally liable for contributing to the delinquency of a minor.

There are special provisions of the law that deal with underage drinking at unsupervised social gatherings. Under California law, an unsupervised social gathering is a party or event that is open to the public, involves 10 or more people under the age of 21, and is not supervised by a parent or guardian of one of the participants. In this situation, a peace officer (who lawfully enters the gathering) can seize any or all alcoholic beverages from anyone under 21 whom the officer has witnessed drinking or possessing alcohol. <sup>a6</sup>

The punishment for violating these laws varies. Often, however, the offender may be found guilty of an infraction or a misdemeanor. In addition, young people between the ages of 13 and 21 who violate the law may have their driver's licenses suspended, revoked, or delayed up to one year for each offense related to the possession, consumption, or purchase of alcohol. *This is true even if the offense does not involve an automobile.* Also, for their first offense, young people may be asked to pay fines up to \$250 or perform between 24 and 32 hours of community service. A young person convicted of a second or subsequent offense will be punished by a fine up to \$500 or required to perform 36 to 48 hours of community service. <sup>a7</sup>

Driving under the influence of alcohol (DUI) is a very serious crime which often requires the payment of a large fine, a mandatory jail sentence, and the suspension or revocation of a driver's license, particularly if the young person has been convicted of the same offense in the past. (See *Cars, Kids, and Traffic Laws*.)

Adults, too, may be liable under laws intended to guard against underage drinking. For example, laws which prohibit the provision of alcoholic beverages to those under 21 provide for criminal as well as civil penalties against the bar and liquor store owners as well as social hosts.

## MYTH

*Some parents believe that if they host a party for a group of their child's friends, they will be liable if one of the young guests gets drunk, resulting in the accidental injury or death of himself or someone else. The truth is that only bar operators are liable under these circumstances. In addition, the bar operators can only be sued by the innocent victim and/or that victim's family or estate, but not by the underage youth who got himself drunk. The bar operator is only liable if the youth was obviously intoxicated. Parents and others have nevertheless been found guilty of contributing to the delinquency of a minor when they have encouraged minors to drink. Although not liable for injuries to the minor or others, adults convicted of giving alcohol to a minor are guilty of a misdemeanor, and must pay a fine of \$1,000 and do a minimum of 24 hours of community service. Moreover, if the minor gets in an accident and causes great bodily injury to himself or others, the adult faces a jail sentence of six months to one year, as well as a fine of up to \$1,000. <sup>a8</sup>*

## **bikes, skateboards and, skates**

Parents and kids should understand that when riding a bike, you must abide by most of the traffic laws that apply to vehicles. This includes stopping at stop signs and lights, riding on the proper side of the street, and giving all pedestrians the right-of-way. Also, all bicycle riders under the age of 18 in California must wear a bicycle helmet, <sup>b1</sup> and at night, bikes must be equipped with a front light, and side reflectors or reflectorized tires. <sup>b2</sup> Wearing a radio headset is prohibited while riding a bike. Additionally, the number of people who can ride on a bike is limited by the number of seats on the bike. It is against the law to ride on someone's handlebars, on the center frame bar, or over the rear tire of a bike. <sup>b3</sup>

There are few laws, however, that relate to skateboards and skates. Cities and counties do have laws regulating the places where your child may skate and the equipment that must be worn by skaters within these designated areas. State law requires that helmets, elbow pads, and knee pads be worn at skate parks. <sup>b4</sup> It is, of course, always against the law to hold onto a moving vehicle while on a bike, a skateboard, or skates. Any violation of these laws may cause your child to be stopped by a police officer, cited, and sent to juvenile traffic court. <sup>b5</sup>

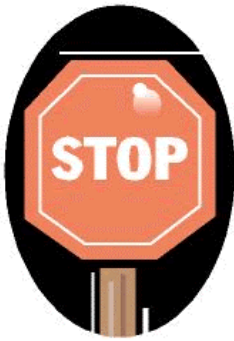
Remember, regardless of whether your son or daughter is on skates or is riding a bike or a skateboard, chances are he or she will be held responsible for hitting someone, or damaging someone's property. It is important to be careful.

## **Do you need a bicycle license?**



No. There is no state law requiring the licensing of anyone -- adult or child -- who wishes to ride a bike. Some local ordinances, however, do provide for a system of licensing bicycles. In these localities, licensing forms can be obtained from the police department, the fire department, or a bike store, depending on the locality. Some towns also register bicycles. Both licensing and registration of a bike may assist with the retrieval of a bike if it is lost or stolen. It is against the law to remove or to buy, sell, or possess a bicycle that has had the serial number taken off.<sup>b6</sup>

## ***cars, kids and traffic laws***



### **Driver's License**

Probably one of the first questions youngsters have about the law is, "Dad (or Mom), how old do I have to be before I can drive?" The correct answer in California is that at the age of 16, kids can acquire a Provisional Driver's License. However, there are new restrictions and requirements for drivers under 18. The Brady-Jared Teen Driver Safety Act made many changes to the licensing laws for minors.

### **2. traffic laws, cars**

First, a minor must get a provisional permit from the DMV. To get a permit, a teenager must:

- Be at least 15, but under 18 years of age.
- Submit an application form and a form showing either enrollment in or completion of Driver Education and Driver Training. The application form must be signed by a parent or guardian.
- Give a thumbprint.
- Pass a vision exam.
- Provide their social security number.
- Verify birth date and legal presence.
- Have his or her picture taken.
- Pay an application fee.
- Pass a written examination on traffic laws and signs. There are 46 questions on the test; a passing score is at least 39 correct answers. If the applicant fails the test, he or she must wait one week to take the test. The applicant has three chances to pass the test.

Once all of these steps are completed, the DMV will issue your child a provisional permit. A child may get a permit at age 15, but cannot take the driver's test or be issued a license until he or she is 16 years of age. A parent, guardian, spouse or adult 25 years of age or older who has a valid license must be in the car at all times, in a position that allows them to take control of the vehicle, if necessary. It is illegal for a permit driver to drive alone at any time!

To get a provisional license, your child must:

- Be at least 16 years old.

- Finish both driver education and 6 hours of professional driver training and received the proper certification.<sup>c1</sup>
- Have an instruction (learner's) permit for at least six months.
- Provide a parent's signature (or other acceptable signature) on his instruction permit stating that all of the driving practices outlined in the Parent-Teen Training Aid have been completed. This booklet is available at your local DMV field offices.
- Complete 50 hours of supervised driving experience with an adult, age 25 or older, who has a valid California driver's license. Ten of the 50 hours must be done at night. The adult must certify to the 50 hours of driving practice.
- Pass the behind-the-wheel driving test. If the applicant fails the test, he or she must wait two weeks to take the test again. The applicant has three chances to pass the driving test within the time the permit is valid. (The teen must bring proof of insurance for the car in which the driving test is taken.)

The old law allowed a teen to drive alone with a provisional license, as long as he or she did not cause accidents or commit traffic violations. The new law imposes restrictions for the first year a provisional driver license is held. The new law applies to minors receiving their permit or license after July 1, 1998.

1. The first six months after a minor is licensed, the minor may not drive with anyone under the age of 20 in the car or between the hours of 12 a.m. and 5 a.m. unless accompanied by a driver 25 years of age or older.
2. The next six months a minor still cannot drive during the hours between 12 a.m. and 5 a.m. without an adult age 25 or older, but can now drive with passengers under the age of 20 without adult supervision.
3. Teenagers under 18 may not be employed as drivers. When a minor reaches age 18, the provisional part of the license ends. The license is still valid as a driver license until the next period for renewal, which is 4 years after the date the license was granted.

Also, minors over the age of 14 can obtain a junior permit under certain circumstances, such as when there is inadequate regular school transportation, inadequate transportation due to illness of a family member, or when driving is essential to get to and from a job and the minor's income is essential to the support of his or her family.<sup>c2</sup> Additionally, a student driver's license may be obtained by a student over 15 years of age who is taking driver training in a parochial or private secondary school with the consent of the school principal and parents.<sup>c3</sup>

**Note:** As mentioned above, before your child can acquire a Provisional Driver's License at the age of 16, he or she must have had a Learner's Permit for at least six months. In order to get a Learner's Permit, your child must be at least 15 years of age and have filled out DMV form DL44, received a parent's or guardian's signature, and completed (or be presently enrolled in) the appropriate driver education or training courses. Minors over 17-1/2 years of age can obtain a Learner's Permit without these education or training requirements.<sup>c4</sup>

### **Liability and Auto Insurance**

For parents, kids and driving means dealing with additional car insurance. In order for a

minor to get a driver license, they must submit the signatures of both parents, or one parent (if only one has custody), or of a legal guardian. This signature means the parent(s) agree to accept financial responsibility for that minor. However, in most cases, parents can't be held liable for more than:

- \$15,000 for injury or death of 1 person per accident.
- \$30,000 for injury or death of 2 or more person per accident (still subject to \$15,000 maximum per person).
- \$5,000 for property damage per accident.

Many parents simply add their child to their own policy, but this can be expensive. If a minor gets their own insurance policy, they should know that in California, they are required to have the following minimum auto insurance coverage:

- **Bodily injury** -- \$15,000 per person/\$30,000 per accident.
- **Property damage** -- \$5,000 per accident.

Remember, the purpose of insurance is to protect your child from losses as a result of an accident he or she has caused. Since youthful drivers often get into accidents during their first few years of driving, it might be wise to get far more than the minimum amount of auto insurance required on a car which will be driven by your child.

Furthermore, the liability limits do not apply when a parent has negligently entrusted their vehicle to the child. For example, the parents could be found liable if the parents knew, or should have known, of their child's poor driving record, past accidents, or drinking problem, and still permitted the child to drive his or her own car or lent the child their family car. In that case, the parents could be found liable up to the full amount of damages if their child causes an accident.<sup>c5</sup>

All drivers also must carry liability insurance to insure against injuries the driver causes to someone else or their property while operating any motor vehicle. This includes things like damaging another car, a street light, a telephone pole, or a building.<sup>c6</sup> The penalty for a first offense of driving without proper insurance is a \$95 fine, plus \$25 in penalty assessments.



## Alcohol and Cars

The state's greatest concern with regard to driving and kids is the use of alcohol. As a result, California has recently passed laws that are tough on kids who drink and drive. For example, it is unlawful for a person of any age to possess an open container of alcohol in an automobile, whether that person is driving<sup>c7</sup> or is a passenger.<sup>c8</sup> Possession of alcohol inside a car is punishable by a fine up to \$1,000, and six months in jail. Furthermore, a minor's license can be suspended for one year. If anyone in the car, driver or passenger, is under 21 years of age, it is illegal to carry a closed container of alcohol in the vehicle unless the person is accompanied by a parent or legal guardian. If the driver, or the passenger, is illegally in possession of an alcoholic beverage and is the registered owner of the car, the vehicle may be impounded for up to 30 days. An exception to this law is if the minor works for a licensee of the Alcoholic Beverage Control Act and is transporting alcohol during normal business hours.<sup>c9</sup>

The most serious alcohol-related offense facing young people is driving under the influence (DUI). In California, it is unlawful for a person under the age of 21 to drive a vehicle if he has a blood-alcohol concentration (BAC) of 0.01 percent or more.<sup>c10</sup> A higher blood-alcohol concentration percentage is applied to adults, 0.08 percent or more.<sup>c11</sup>

If your teen is stopped for driving under the influence, a peace officer may administer a breath, blood, or urine test to determine that individual's blood-alcohol level. You may not refuse to submit to testing without facing serious penalties. For example, if you fail to submit to a BAC test, you may be fined or imprisoned, and you may have your driver's license suspended or revoked for a period of one to three years.<sup>c12</sup>

### Important Laws Young Drivers Should Know

**Reckless Driving:** California law prohibits driving a vehicle upon a highway or in an off-street parking facility in willful or wanton disregard for the safety of persons or property. It also provides for more severe punishment to a reckless driver who causes bodily injury to another.<sup>c13</sup>

**Speed Contests:** Speed contests are against the law. A judge can suspend a first-time offender's driver's license for 90 days, and may suspend a minor's license for up to six months for subsequent offenses, as well as impose fines of up to \$1,000.<sup>c14</sup>

**Littering and Throwing Objects at or from a Vehicle:** California law makes it a misdemeanor to throw anything at or from a moving vehicle and a felony to do so with the intent to cause great bodily harm. The law also prohibits littering or throwing lighted cigarettes from a motor vehicle; the penalties range from a \$100 fine to a \$1,000 fine and probation.<sup>c15</sup>

**Unlicensed Minors and the Purchase of Vehicles:** A minor who does not possess a valid driver's license may not purchase or lease a motor vehicle. The law also prohibits a minor from using a false driver's license to purchase or lease a vehicle.<sup>c16</sup>

**Hit and Run:** In California, you must stop after an injury-producing accident and exchange names, addresses, driver's licenses, vehicle licenses and other such relevant information. In addition, if death is involved, the accident must be reported to a police officer. Where property damage only is involved, the penalties for failing to report damage or otherwise notify the owner are six months and/or a \$1,000 fine – the penalty can go as high as a \$10,000 fine and/or one year in jail if personal injury is involved, in addition to any liability incurred for the injuries themselves.<sup>c17</sup>

**Driving without a License:** In California, it is a misdemeanor to drive without a valid driver's license. Also, the law requires a driver to have his license in his possession while driving. Driving with a suspended or revoked license is a misdemeanor carrying a punishment of five days to six months and/or a fine of up to \$1,000 for a first conviction.<sup>c18</sup>

If for some reason a breath, blood, or urine test is not performed, a young person still may be convicted of DUI. A chemical test is not required to convict if the judge or jury concludes that a person under the age of 21 did consume an alcoholic beverage and was driving a vehicle.<sup>c19</sup>

If your child is convicted of DUI and is under the age of 18, her license will be revoked: (1) until she reaches the age of 18; (2) for one year; or even greater punishments if your child has committed prior offenses.<sup>c20</sup> The court may choose the longest of these options.<sup>c21</sup>

In most cases, a minor convicted of DUI also will be required to participate in an alcohol education or community service program. If the offender is over 18 years of age, he or she will be required to pay the expense of attending this program; otherwise, the expense is charged to the offender's parents.<sup>c22</sup> If your child fails to complete a court-ordered alcohol education or community service program, a court may revoke or suspend his or her driver's license. If the minor does not yet have a license, the minor will be delayed in receiving one. These sanctions will remain in effect until the minor completes the court-ordered program or reaches 21 years of age.<sup>c23</sup> Finally, anyone who has their driver's license suspended or revoked may also have their automobile insurance canceled. A DUI conviction disqualifies an individual from receiving a "Good Driver Discount" insurance policy for the next seven years.<sup>c24</sup>

**Laser Pointers:** It is illegal to point a laser into a motor vehicle for the intent of annoying or harassing the driver or passengers. Violating this law will result in a fine of \$50, or require performance of community service. A subsequent violation can result in a \$100 fine or additional community service hours.<sup>c25</sup>

## Civil laws and lawsuits

In general, legal actions are divided into two categories: civil actions and criminal actions. Civil actions are lawsuits which are often between private individuals or businesses where someone sues another for monetary damages (money) or some other form of relief that would offer compensation or protection for a wrong that was committed. Civil cases having to do with a child getting injured or hurt in some way often involve parents.

Nevertheless, minors may enforce their own legal rights in a civil case as long as they do so through a guardian *ad litem*. A guardian *ad litem* is a responsible adult appointed by a court to pursue a case in a child's name and work to protect and defend the child's rights. Often these court-appointed guardians are the parents of the children. Along with the power to sue, children can be sued, often through their court appointed guardian *ad litem*.<sup>c26</sup>

When filing lawsuits, young people, as with adults, must abide by Statutes of Limitations. A statute of limitations is a law which sets a time limit on the filing of particular lawsuits. These time limitations vary depending on the type of action involved, but are relatively standard for the following cases:

- **Personal Injury** -- one year from the time of the injury.<sup>c27</sup>
- **Breach of Contract** -- four years from the day the contract was broken, or two years if the contract was never in writing.<sup>c28</sup>
- **Damages to Real or Personal Property** -- three years from the date the damage occurred.<sup>c29</sup>

In addition to the above, some very important laws exist in California which relate to actions brought by minors. First, if a child is injured before or at the time of birth, the lawsuit must be filed within six years from the time of birth or the time the child or his or her parents discovered the injury or should have discovered the injury.<sup>c30</sup> Also, suits by a minor for medical malpractice must be initiated within three years unless the minor is under 6, in which case it must be initiated within three years or prior to the child's eighth birthday, whichever period is longer.<sup>c31</sup> In California, lawsuits alleging child sexual abuse can be brought until the person is 26 years old or until three years have passed since the person discovered or could have reasonably discovered that her injuries were related to sexual abuse.<sup>c32</sup>

Finally, and probably most importantly, the statute of limitations clock does not start until a child reaches the age of majority (or 18 years old) in most cases. This means that if a 12-year-old child is injured by a negligent car driver, the child would not have to file a lawsuit within a year (or by the time he is 13 years old) but could wait until a year after his 18th birthday to begin an action.<sup>c33</sup>

## *criminal law and crimes*

Criminal law and crimes represent those acts, behaviors or attitudes that society believes are wrong and wishes to discourage. When a minor or adult violates a criminal law, it is the state, on behalf of society, that files a lawsuit. County prosecutors are the state's designated representatives and have the discretion to choose which violations of criminal law are most important to prosecute or punish. When the state prosecutes someone for breaking a criminal law, the wrongdoer could face a fine or be locked up in a county jail or sent to state prison. In a civil case, you may have to pay a fine if you lose, but you do not go to jail. In California, most of the laws that define criminal conduct may be found in the California Penal Code, but criminal acts are defined in many other areas as well. City and county ordinances also are considered part of criminal law and include curfew laws, no smoking laws and laws requiring smoke detectors or fire escapes.

Criminal offenses are divided into three categories: felonies, misdemeanors and infractions. A felony is the most serious type of crime and is punishable by a fine and/or imprisonment in a state prison or death. A misdemeanor is punishable by a fine and/or imprisonment in a county jail for no more than one year in most cases. No jail time is usually applied for an infraction, but the defendant must appear in court and/or pay a fine. If you are charged with an infraction, you are not entitled to a jury trial or to an attorney at the state's expense. Most traffic violations are infractions.

Finally, some crimes are punishable either as misdemeanors or as felonies. These crimes are called "wobblers", and are considered felonies until such time as judgement is imposed.

### **MYTH**

*Some parents believe that children who are under a certain age cannot be convicted of a criminal act. Despite the fact that children under the age of 7 historically have been conclusively presumed incapable of harboring criminal intent (the intent necessary to be found capable of a crime), the law only provides that children who are below the age of 14 receive a rebuttable presumption with regard to their ability to harbor criminal intent. This means that in California, if the state is seeking to prosecute a child under the age of 14, the state must establish clear proof that the child knew that their act was wrong at the time of its commission. Although age and experience do impact a court's determination as to whether a child understands the wrongfulness of his or her acts, there exists no magic age under which children cannot be found guilty of a crime.<sup>c34</sup> For more information about how criminal laws relate to kids, see *Juvenile Court*.*

## *curfew laws*

Curfew laws restrict the rights of youngsters to be outdoors or in public places during certain hours of the day. Such laws aim to establish a safer community environment and to better protect kids from the negative influences they might encounter if allowed to wander about late at night. Currently, there is no law in California that sets out a curfew that would apply to all youngsters in the state. Instead, these laws or ordinances are typically passed and enforced by local municipalities, cities, and townships.

State law does provide that parents can be charged actual costs of administration and transportation services for the return of a minor to his or her residence on a 2<sup>nd</sup> curfew violation.<sup>c35</sup> Also, a child who is a frequent or habitual curfew violator may be declared a ward of the court and treated as a status offender.<sup>c36</sup> Local laws may vary, but most curfew ordinances prohibit minors from being out past 10 p.m. on weekdays and 12 a.m. on weekends. Exceptions to these curfew laws do exist, allowing kids to legally stay out late if they are:

- participating in a religious, educational, or political activity;
- running an errand for a parent or guardian;
- accompanied by a parent, guardian, or adult;
- working or going to or from their place of employment;
- responding to some type of emergency; or
- returning home from a school, cultural, or recreational activity.

Certainly, curfew laws have been challenged. Over the years, many courts have struck down such laws as unconstitutional either because they were vague or violated the rights of a child or his or her parents. Nevertheless, in California, courts have generally upheld such laws as long as the local ordinance was attempting to discourage "loitering" or "remaining" in certain places after certain hours.

If your child is picked up for breaking curfew, California law authorizes law enforcement personnel to temporarily detain your child and transport him or her home. The law also gives local police some latitude in their enforcement of the curfew ordinance if the officer believes a youth has a "legitimate reason based on extenuating circumstances" for the violation.<sup>c37</sup>

If you don't know whether your community has a curfew law, call your local police department. If there is a curfew law, get a copy of the law, find out the ages of minors covered under the law, get a list of the exceptions and exceptional circumstances, and determine if it is advisable for your child to carry identification or a note from a parent giving him permission to be out late. As a parent, you also should request the specific guidelines given to police officers dealing with youngsters who are out past curfew.

## *disturbing the peace*

Sometimes called "disorderly conduct," disturbing the peace is a crime kids should know more about. In California, kids can face these charges if they are caught fighting or challenging someone to fight in a public place, making loud noises, having a party which is so loud that it unreasonably disturbs the community, or using foul language in a public place which is likely to produce violence. Anyone arrested for disturbing the peace faces up to 90 days in jail and/or a \$400 fine. Minors, however, are often referred to juvenile court, or if no one has been injured or threatened and no property was damaged, defaced, or destroyed, their parents are notified.<sup>d1</sup>

## *drugs and kids*

Today, far too many of our kids are involved in the use, possession, or sale of drugs. In fact, the chances are about one in two that your high school-age child has experimented (or will) with some type of illicit drug. The worst part is that parents are often the last to know.



### **3. Drugs and kids**

Laws regulating drugs exist at the federal and state levels. Most of the federal laws deal with large-scale drug trafficking, activities in which most kids are not involved. Instead, young people are most often charged with "possession of a controlled substance" under California law.<sup>d2</sup> More than 135 controlled substances carry a felony charge if you are arrested with one or more in your possession. Such substances include concentrated cannabis, heroin, cocaine, LSD, DMT, S.T.P., amphetamines, PCP, and barbiturates. For a few drugs, the punishment is less severe. The possession of not more than 28.5 grams of marijuana, other than concentrated cannabis, is treated as a misdemeanor, resulting in a fine of up to \$100. Minors also may be escorted home to their parents or taken to a juvenile probation officer. Of course, if your child is found possessing more than one ounce of marijuana or with any amount on school grounds, or cultivating marijuana, the crime and punishment is more serious.<sup>d3</sup> Finally, it is against the law to have certain drug paraphernalia or to be knowingly in a place where heroin, cocaine, mescaline, peyote, or synthetic THC is being used if you aid, assist or abet in the participation of the unlawful smoking or use of a controlled substance.<sup>d4</sup> In California, courts have the discretion to suspend a young person's license (if he/she is under the age of 21 but older than 13) for one year if he/she has been convicted of certain drug and alcohol related offenses.<sup>d5</sup> If the minor has yet to get a license, driving privileges may be delayed for one year subsequent to the time the person becomes legally eligible to drive. Successive offenses may result in further suspension or delay in eligibility.<sup>d6</sup> Suspension, restriction, or delay of driving privileges is in addition to any penalty imposed upon conviction.



The most serious drug offenses for which young people are sometimes prosecuted involve dealing or drug-running. When kids are arrested with a greater quantity of drugs than they could have reasonably been expected to use themselves, they may be charged with "possession with intent to sell" drugs. This is a felony, even if the simple possession of the particular drug involved would not have been a felony.<sup>d7</sup> The state imposes severe sanctions when any person 18 years or older unlawfully prepares for sale, selling, or giving away a specified controlled substance to a minor at locations where children are present, including school grounds, a public playground, a child day care facility, a church or a synagogue, during school hours or when school-related programs are in session or at any time when minors are using the facility where the offense occurs. This conduct is a felony punishable by up to nine years in state prison.<sup>d8</sup> Persons under the age of 18 who induce another minor to violate designated provisions related to controlled substances may be punished by imprisonment in the state prison.<sup>d9</sup>

## **SOME DRUGS COMMONLY ABUSED BY YOUNG PEOPLE**

### **Marijuana**

- **Slang Names:** Pot, grass, weed, tea
- **In General:** After alcohol, this is the most commonly used drug.
- **How Abused:** Marijuana leaves and flowers are dried and chopped, then smoked like a cigarette. It can also be taken orally.
- **Effects:** Marijuana affects mood, thinking, behavior, and judgment. It physically enters the bloodstream and acts on the brain's nervous system.

### **Inhalants**

**Slang Names:** Sniffing glue, gasoline, lighter fluid, paint thinner, varnish, nail-polish remover, and aerosol products.

**In General:** Inhalants are chemicals which give off fumes or vapors which, when inhaled, are intoxicating.

**How Abused:** They are inhaled from a moistened cloth, or by placing chemicals in a plastic bag or container. This concentrates the fumes.

**Effects:** Inhalants may give one a feeling of mild intoxication followed by excitement and exhilaration. These toxic vapors can cause damage to lungs, brain, and liver, or even convulsions and death.

### **Hallucinogens**

**Slang Names:** LSD, acid, cubes, Mesc, STP, and DMT.

**In General:** Hallucinogens are natural and man-made drugs which cause distortions in physical senses and mental reactions.

**How Abused:** They are taken internally by capsules, tablets, sugar, or other food, and can also be injected.

**Effects:** Hallucinogens affect certain chemicals in the brain and change the electrical activity of the brain. Physically, they increase blood pressure, cause chills, nausea, and irregular breathing. LSD can cause permanent genetic damage.

## **Cocaine**

**Slang Names:** Coke, snow, flake, gold dust, acid rock.

**In General:** Cocaine is a white powder made from the leaves of the coca bush. It acts as a stimulant and local anesthetic.

**How Abused:** Cocaine can be sniffed, swallowed, or even injected into the veins.

**Effects:** It acts as a stimulant. This drug is used for pleasure, thrills and sociability. It may hide feelings of hunger, thirst, and fatigue. Extreme use may cause hallucinations, convulsions, damage to the nasal cavity, severe depression, and death.

Parents are often the last to know that their child is involved with drugs. You need to look for marked changes in your child's general behavior and attitude. Remember that although some behavior is typical of adolescence, you should be particularly concerned if you see a combination of changes in your child, including:

- A noticeable lack of interest in formerly rewarding activities or close friends.
- Frequently vague or withdrawn moods.
- Secret telephone calls or meetings, or being peculiarly secretive about personal possessions.
- Increased frustration levels and frequent temper tantrums;
- Changes in sleeping and eating habits.
- A rapid decline in school grades or an unusual number of recurring absences.
- Frequent borrowing of money or the outright lack of money.
- Stealing or the disappearance of valuable items from around the house.
- Changes in personal dress, from neat and reasonably clean to unkempt and dirty.
- Forming new friendships and hangouts, and developing unusually strong alliances with those friends.

Even if your child is not dealing in drugs, it is against the law to use or be "high" on drugs. If you find out that your child is using drugs, address the situation immediately and firmly. It is a troubling and all too-common family scenario, but you need to get through this together.

# *emancipation*

Legally speaking, the term “emancipation” is used to describe that point in time when parents are no longer responsible for their children, and children no longer must answer to their parents.<sup>e1</sup> Once this occurs, parents do not have to give permission for anything the minor may wish to do. They also no longer have to provide their child with support or any necessities, such as food, shelter, or medical care. This means that your minor child does not have to be responsible to you and may live wherever he or she wishes to live.

In addition, if a minor becomes emancipated, he can make nearly all of his own medical, dental, or psychiatric care decisions. An emancipated youth also may enter into a contract, sue and be sued in her own name, make or revoke a will, buy or sell interests in property, and apply for a work permit without parental consent, among other things. At the same time, the minor's parents lose control over the minor's earnings, and instead, the minor must take care of his own financial affairs.<sup>e2</sup> In California, an emancipated minor's identification card or driver's license can state the minor's emancipated status.<sup>e3</sup>

## **MYTH**

*Some kids believe that they have the right to "divorce" their parents or seek emancipation without their parents' permission.*

*The truth is, however, that kids cannot unilaterally "divorce" their parents and the emancipation process is very complex and requires, at a minimum, a parent's consent or acquiescence in order for a court to approve such a process.*

In California, emancipation occurs automatically under certain circumstances. For example, as soon as a person turns 18 years of age, he legally becomes an adult and is emancipated. (See *Age of Majority*). When a minor gets married, she becomes emancipated from her parents. Emancipation also occurs if a minor is on active duty with the Armed Forces.<sup>e4</sup>

Additionally, in California, a minor may become emancipated with a petition to the courts. In this case, a minor (at least 14 years of age) must state that he would like to be emancipated and is willing to live separate and apart from his parents or guardian. In doing so, the minor must be able to prove that this decision was made voluntarily and that he has his parents' consent or acquiescence to manage his own financial affairs. The minor must explain to the court how much money he makes, and how future expenses will be handled, including the cost of rent, clothes, food, and entertainment.<sup>e5</sup>

Before a petition is heard, the court will insist that notice be given to the minor's parents, guardian, or other person entitled to custody, unless the minor can show that their address is unknown, or that for some reason notice cannot be given.<sup>e6</sup>

Finally, a court must find that it is in the minor's best interests to become emancipated. And if circumstances change after the emancipation order has been granted, the court has the power to rescind the order and notify the minor's parents.

**Note:** Running away from home is not a legitimate means of becoming emancipated. At the same time, parents cannot abandon their responsibilities by forcing their children out of the home. In that situation, a child who has been pushed out of his home may acquire the right to determine his place of residence as well as make certain other decisions without losing the right to parental support. (See *Parents' Rights and Responsibilities*.)

## ***fights and fighting***

Of the many ways young people get into trouble with the law, fights and fighting are among the most common. When kids are caught fighting, police officers have several options. They can, of course, contact the minor's parents and simply escort the child home. More often, particularly if someone has been injured or property has been damaged, police officers will arrest the minor. When this occurs, a child may be charged with assault and battery or disturbing the peace. An assault is defined as "an unlawful attempt, coupled with present ability, to commit a violent injury upon another."<sup>f1</sup> Assault is trying or planning to hurt someone but not necessarily succeeding. Battery is defined as the willful and unlawful use of force or violence upon the person of another. In other words, battery is when an assault has been successfully, and violently, carried out.<sup>f2</sup>

In California, an assault is a misdemeanor punishable by six months or \$1,000, or both. When an assault is committed against specific persons, such as a peace officer, firefighter, school employees, mobile intensive care paramedics, animal control officer or an emergency medical technician doing his or her job, the punishment is enhanced.<sup>f3</sup> Also, if the assault is committed on school or park property or with the use of a deadly weapon, the punishment is again more serious.<sup>f4</sup> When an assault is committed by a minor on school property, in addition to the fines and punishment imposed, the minor may be required to attend counseling at the minor's parents expense.<sup>f5</sup>

A battery also is a misdemeanor, and the guilty individual can be imprisoned for up to six months but fined up to \$2,000. Again, as with assault, if the battery is directed at specific public service or medical personnel, it increases the potential punishment and may include imprisonment in state prison.<sup>f6</sup> Fights that occur on school grounds, in parks, or at a hospital also are of special concern.<sup>f7</sup>

Sometimes, when police officers happen upon a scene where two individuals are fighting it out, it is difficult to determine who started the fight. If, however, your child can prove that she was acting in self defense, the charges may be dropped or may not be filed at all. However, in a situation where one child agrees to meet the other after school and fight it out, both would be charged.

## MYTH

*Some kids believe that fights between brothers and sisters or even other family members are not against the law, and that these types of assaults are to be expected and are acceptable. The truth is that no one (except a parent using reasonable force to discipline a child) has permission to strike another person. This is true whether that person is your kid brother, an annoying sister, a parent, or a teenage son. In such cases, the police, although they often defer to parents, have the power to arrest the offender and refer the matter to court.*

It is also important to keep in mind that when fights occur at school, additional consequences may be involved. For example, fighting at school may be grounds for suspension or expulsion (See *Schools and School Rules*). This is true even if the assault on another student was the result of hazing a student as part of some initiation process. Unlawful hazing are those acts that intend to degrade or injure any fellow student. Illegal hazing can result in up to one year in jail or a fine of up to \$5,000 or both.<sup>f8</sup>

Threatening a teacher or school official also is a crime if the threat or intimidation is directly communicated to that individual. An example of this might be a student who threatens to beat up a teacher unless he or she gives the student a passing grade.<sup>f9</sup> A separate law makes it mandatory for a school employee who has been attacked, assaulted, or physically threatened by a pupil to report the conduct.<sup>f10</sup>

Finally, as mentioned earlier, fighting or picking a fight in a public place also can be prosecuted as the crime of disturbing the peace. (See *Disturbing the Peace*).

## *gangs, gang colors and dress codes*



Today, the definition of a gang has less to do with the antics of "The Little Rascals" than the illegal and violent behaviors witnessed in such films as "Boyz 'n the Hood." In Los Angeles County alone, 50,000 to 70,000 kids are members of one gang or another. Traditionally an urban product, gangs now exist in every corner of this state. As they have increased in size and presence, they also have grown more violent. In response to gangs carrying guns and terrorizing neighborhoods, lawmakers in California have passed some new laws to try to combat this problem. There are several specific laws worth mentioning here.

### **4. Gangs and kids**

First, there is the California Street Terrorism Enforcement and Prevention Act.<sup>g1</sup> Enhanced in part by the passage of Proposition 21 and the implementation of the Gang Violence and Juvenile Crime Prevention Act of 1998, the Street Terrorism Enforcement and Prevention Act provides in pertinent part that:

*"Any person who is convicted of a felony committed for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members, shall, upon conviction of that felony, in addition and consecutive to the punishment prescribed for the felony or attempted felony of which he or she has been convicted, be punished by an additional term of two, three, or four years at the court's discretion. If the felony is a serious felony, as defined in subdivision (c) of Section 1192.7, the person shall be punished by an additional term of five years. If the felony is a violent felony, as defined in subdivision (c) of Section 667.5, the person shall be punished by an additional term of 10 years."*<sup>g2</sup>

The Act defines a "criminal street gang" as a group of three or more individuals whose primary intent is to commit one or more "specific criminal acts," and whose members have been involved in a pattern of criminal gang activity.<sup>g3</sup> These specific criminal acts include among other things, assault with a deadly weapon, sale or transportation of controlled substances, robbery, homicide, manslaughter, burglary, rape, and kidnapping.<sup>g4</sup> The Act gives courts the power to add an additional one to three years to a young person's sentence if the crime was committed through participation in a criminal street gang.<sup>g5</sup>

Parents of gang members can also be prosecuted and held criminally liable for their child's gang-related activities. If the parents fail to exercise reasonable care, supervision, protection, and control over their minor child, they can be charged with contributing to the delinquency of a minor.<sup>g6</sup> Under the law, such neglect on the part of parents is punishable by up to one year in jail and/or a fine of \$2,500.<sup>g7</sup> (See *Parents' Rights and Responsibilities*.)

## **Why do Kids Join Gangs?**

Certainly there are many reasons why kids say they join gangs, but among those mentioned most often by kids and experts in the field are:

- To be a member of something larger than themselves or to be part of a team.
- For protection, either from other gangs, school acquaintances, or adult figures of one type or another.
- To become a leader with power, respect, and the backing of an organized group.
- To enhance their self-esteem.
- To make money (though illegally) and acquire material goods which bring status and power.
- For the thrill of it, to be "bad" or "cool."
- To acquire a reputation; to be significant.
- To rebel.



Gang members themselves have an intense need for approval from others, and very often lack confidence. Ironically, many of the things kids seek in gangs are the very things that children should be provided with through their families, extended families, schools, and communities. Many of these kids, however, believe that these traditional institutions have failed them or were simply not available to them. As a result, they have had to create their own support network.

## **Dress Codes**

Another way in which California has been trying to attack the problems of gangs and gang members is through tough new restrictions on gang colors and/or gang dress. An example of this effort is recent legislation that gives public school officials more authority to ban gang-related apparel or to require that kids wear uniforms in schools.<sup>g8</sup> In addition to making it difficult to wear gang-related regalia at school, many educators believe that tighter restrictions on dress and dress codes can reduce discipline problems, while encouraging more cooperation, school spirit, and academic achievement. The only legal restrictions on the ability of school officials to develop a school dress code or uniform policy are:

- Parents must be included in the decision-making process.<sup>g9</sup>
- Parents must be given at least six months notice of the effective date of the new dress policy.<sup>g10</sup>
- Resources and funding assistance must be made available to parents and disadvantaged pupils, if needed, to acquire uniforms.<sup>g11</sup>
- Parents must be given a choice to exclude their children from the uniform requirement.<sup>g12</sup>
- The dress policy must be a part of a larger effort of the school to combat real or threatened problems on the school campus.

Finally, another way in which these issues have come up in recent years is when private owners seek to restrict admission to malls and amusement parks based on one's wearing of gang colors or dress. These restrictions have been attacked as arbitrary, discriminatory, and a violation of an individual's constitutional rights. Most, if not all, of these cases have been settled out of court, leaving few laws or court cases to define whether or not these types of restrictions are legal. For more information about school dress codes, see *Schools and School Rules*.

## **MYTH**

*Some kids, as well as parents, believe that membership in a street gang is against the law. The truth is that participation in a gang that does not engage in criminal activity is not against the law. In fact, many would argue that such membership is constitutionally protected. Although laws like the California Street Terrorism Enforcement and Prevention Act and the Gang Violence and Juvenile Crime Prevention Act seek to discourage involvement in street gangs, it is the participation in criminal gang related activities, not gang membership, that will enhance the punishment for acts committed in association with a gang.*

# graffiti

Historically, California has never had any specific laws outlawing graffiti in and by itself. Instead, graffiti is traditionally included as one of a variety of acts covered by laws which outlaw vandalism and/or malicious mischief.<sup>g13</sup> Under these laws, individuals who maliciously deface, damage, or destroy someone else's property are guilty of vandalism. In 1993, with graffiti-related, clean-up costs approaching \$500 million annually in California, new laws were passed forbidding graffiti on governmental facilities, vehicles and public transit, on the personal property of others, and on highways, among other things.<sup>g14</sup> The laws define graffiti as the unauthorized inscription, word, figure, mark, or design that is written, marked, etched, scratched, drawn, or painted on real or personal property.<sup>g15</sup>

The punishment of taggers, or individuals who do graffiti, depends on the extent of the damage caused by their conduct. For example, if the damage is \$400 or more, the punishment could be imprisonment of up to one year in jail or a fine of up to \$10,000.<sup>g16</sup> If damage is \$10,000 or more, the punishment could be a fine of up to \$50,000 and/or imprisonment.<sup>g17</sup> If the damage is less than \$400, the punishment could be imprisonment of up to one year in jail and/or a fine of up to \$1,000.<sup>g18</sup>

In addition to the above fines and jail sentences, courts also can order you to clean up, repair or replace damaged property.<sup>g19</sup> Juveniles between the ages of 13 and 21 may have their driver's licenses revoked or delayed for up to one year.<sup>g20</sup> The length of the suspension or delay may be reduced, however, if the young person performs community service, which may include removing graffiti from public property.<sup>g21</sup>

## Are Parents Liable When Their Kids Damage, Destroy, or Deface the Property of Others?

Yes, California law makes parents liable in certain circumstances. More specifically, they are liable for:

- Fines which the minor cannot pay.<sup>g22</sup>
- The costs of repairing and replacing destroyed property.<sup>g23</sup>
- Damages or losses related to merchants' property or library books.<sup>g24</sup>
- Damages to school property or rewards offered to find the person responsible for the damage, up to \$10,000.<sup>g25</sup>
- Willful misconduct, including the destruction of property through the use of paint or similar substances.<sup>g26</sup>

Also, California law provides that when seeking civil damages in cases involving vandalism, the party who wins will also be entitled to the costs of his or her attorney and court fees. For more information about laws that may apply to graffiti and/or the defacing or destruction of property, see *Hate Crimes and Hate Speech, Parents' Rights and Responsibilities, and Vandalism*.

## *guns and other dangerous weapons*

In the United States today, an estimated one in eight students carries a weapon to school, according to a National Institute of Justice study. The study also showed that 37 percent of the young people obtained their weapons "off the street" with the weapons-of-choice being large caliber revolvers and semi-automatic handguns.

Laws that regulate the possession and use of guns and other dangerous weapons in California are broad and vary in their intent. Some of the laws seek to regulate the size or type of weapon, while others focus on how the firearm or weapon is used or carried. For minors, the law is very clear. It is illegal for a minor to possess a handgun without the written permission of a parent or guardian.<sup>g27</sup> No one may sell or give a firearm, even an air gun or gas-operated gun, to a minor without parental consent. Some types of firearms and firearm-related equipment are outright illegal, regardless of whether parental permission is obtained. These items include sawed-off shotguns, machine guns, unmarked pistols (handguns which have their identifying numbers removed), as well as sniper scopes, silencers and plastic firearms.<sup>g28</sup> Other illegal weapons (illegal to manufacture, import, possess, sell, give, or even lend to someone) include any ballistic knife, fletcher dart, blackjack, sling shot, nunchaku, metal knuckles, dirk, dagger, a weapon held in a camouflaging firearm container and oriental throwing stars. Also prohibited are belt buckle knives, leaded canes, zip guns, ghurikens, lipstick case knives, writing pen-knives, and unconventional pistols.<sup>g29</sup>

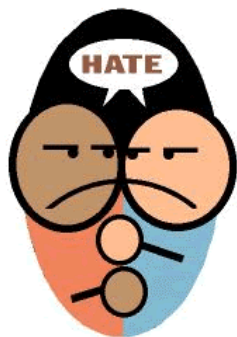
Parents should keep the following issues in mind when considering guns, dangerous weapons and their kids:

- If your child is caught either possessing, selling, or using a dangerous weapon at school, he can be suspended or expelled. This punishment is in addition to the charges which may be filed against your child for Penal Code violations.<sup>g30</sup> (See *Schools and School Rules*)
- Even if a minor does not actually use a weapon that she has in her possession, exhibiting the weapon in a rude or angry way is a misdemeanor.<sup>g31</sup> Likewise, it is a misdemeanor to exhibit a replica of a firearm, plastic or otherwise, in a way that frightens someone or causes an individual to believe that she is in danger of bodily harm.<sup>g32</sup>
- If a parent gives a gun to a minor or leaves a gun where the child could get it, and someone is subsequently injured or killed by that gun, that parent could be liable for up to \$30,000 for the death or injury of that individual or his property. If death or injury is suffered by more than one person, the parent can be held liable for up to \$60,000.<sup>g33</sup> Additionally, parents who have negligently given their child a gun can be prosecuted for criminal negligence if their minor child uses the gun to injure or kill another.
- Even though the possession of a firearm is often illegal in and by itself, if a weapon is used while committing another crime, the punishment will be enhanced and treated as a felony, adding years to a sentence.<sup>g34</sup>

In addition to the issues above, new laws have recently been passed to address problems associated with carrying guns into motor vehicles and drive-by shootings. It is now a felony for any driver or owner of a motor vehicle to allow anyone to fire a gun from a vehicle. In these circumstances, if such a person willfully and maliciously fires at someone from a car, the penalty can be up to seven years in prison.<sup>g35</sup>

## *hate crimes and hate speech*

Over the past decade, there has been a lot of talk in California and around the country about the growing number of crimes motivated by the hatred or dislike of others. These have been classified as hate crimes. A hate crime is any crime committed against a person (or his property) because of his race, ethnicity, religion, ancestry, national origin, disability, gender, sexual orientation or because he is perceived as having one or more of these characteristics.<sup>h1</sup> In some cases, threats and intimidation are enough to constitute a hate crime.<sup>h2</sup> Unfortunately, a large percentage of these types of crimes in California are being committed by kids.



### **5. Hate crimes**

#### *Some Examples of Hate Crimes*

- Throwing a brick through the window of an African-American couple's home because the perpetrator does not like African-American people and wants them to move out of his neighborhood.
- Attacking a man walking down the street because the perpetrator thinks he is gay.
- Spray-painting a car that belongs to an immigrant because the perpetrator feels that immigrants are causing problems in her community.

What is very important to understand about hate crimes is that when prejudice is the principal reason or motive behind the violence, intimidation, or threat, California law makes the punishment for the crime more severe. This occurs in the same way that a punishment would be increased if someone uses a deadly weapon while committing a crime. California students between the fourth and twelfth grades may be suspended or recommended for expulsion if they cause, attempt to cause, or participate in an act of hate violence.<sup>h3</sup> A hate crime conviction, for an adult or a minor, can increase a sentence by one to three years depending on the circumstances. If you or your child voluntarily join someone else in the act of committing a hate crime, your sentence may be increased from two to four years.<sup>h4</sup> Individuals involved in this type of conduct can also be sued by the victim and under California law may be ordered to pay:

- For the victim's medical bills and/or property repair bills.
- Money to compensate the victim for her pain and suffering.
- A \$25,000 fine.
- Fees for the victim's attorney.<sup>h5</sup>

Hate speech (for example, referring to someone by way of an ethnic or racial slur) is

more difficult to regulate. This is largely due to the fact that the First Amendment of our Constitution, the Right of Free Expression, protects much of what we say and our ability to say it. As a result, in California, no criminal penalties can be attached to words alone unless the words themselves amount to threats of violence against a specific person or group of people, and the threat comes from someone with the apparent ability to carry out that threat.<sup>h6</sup>

## *juvenile court*

In California, as in all states, we have set up a separate court for minors, those persons under 18 years of age. Early in this century, this state decided that children and their needs are different from adults and deserve a separate court system. Also, many believed that if children did something wrong, they could be rehabilitated through intensive counseling, education, and guidance, whereas law-breaking adults might be less open to rehabilitation. Today, our juvenile courts serve three distinctly different kinds of kids:

First, there are children who have committed an act that if committed by an adult would be considered criminal. These kids are often called "delinquents or 602 kids." The number 602 refers to the Welfare and Institutions Code section that specifically relates to delinquents. Second, there are children who have committed status offenses. Status offenses are activities that are only wrong because they were committed by minors. Therefore, if they were committed by adults, they would not be considered illegal at all. Examples of status offenses are truancy, running away from home, violating curfew, or simply being outside of the control of your parents. These kids are also often called "children in need of supervision or 601 kids." Again, 601 refers to the Welfare and Institutions Code section that specifically relates to status offenses. (See *Kids in Need of Supervision*)

And finally, there are the children who have been abused, neglected or abandoned. In these circumstances, the court must decide who exactly is going to be responsible for the care of these children. This is done through court hearings, which are held to determine questions of dependency.<sup>j1</sup> In some cases, temporary custody is taken from the parents and the children are placed in foster care.<sup>j2</sup> Parents then may be ordered to get counseling before their children are returned. In other cases, the parents' right to their children is taken away entirely and these children are put up for adoption.<sup>j3</sup> (See *Parents' Rights and Responsibilities*)

The exception to the three primary categories of kids described above are the children who are age 14 or older and have committed a very serious crime.<sup>j4</sup> Under these circumstances, the child's case may be transferred from the juvenile justice system to the adult justice system.<sup>j5</sup>

Generally, this decision is based on the following criteria:

- The minor's degree of criminal sophistication.
- Whether he can be rehabilitated.
- The child's previous delinquent history.
- The success of previous attempts by the juvenile court to rehabilitate the minor.
- The circumstances and gravity of the offense. <sup>j6</sup>

Again, usually a child will be transferred to the adult courts only when the child has allegedly committed an extremely serious offense, such as murder, arson, armed robbery, forcible sex crimes, kidnapping, assault, shooting a firearm into an occupied building, selling or providing certain drugs to other minors, or other aggravated offenses. <sup>j7</sup> If the child remains in the juvenile justice system she may be kept under the court's jurisdiction until the age of 21 if she was less than 16 when she became a ward of the court. If the child is more than 16 years old when charged with a crime, the child will remain a ward of the court until the age of 25. <sup>j8</sup>

Kids who are picked up by police officers and referred to juvenile court because they have either broken some adult law or are status offenders are entitled to warnings similar to Miranda warnings which adults receive when they were arrested. <sup>j9</sup> But police and juvenile probation officers have far more discretion to release kids and send them home to their parents. <sup>j10</sup> If children are held by the police or the probation department, however, laws require that those who are status offenders be held separate and apart from children charged as delinquents and/or adults who have been arrested. <sup>j11</sup> There are of course some exceptions to these rules, but, in general, the state is very concerned with mixing these populations.

If a child is taken into custody, he must either be released within 48 hours (excluding non-court days) or have a criminal complaint or a petition for wardship filed against him. <sup>j12</sup> During this time, the parents must be notified about what is going on and/or the intent of the probation department to have their child made a ward of the court. <sup>j13</sup> During these proceedings, minors have a right to a lawyer and have most of the procedural due process rights given adult defendants. <sup>j14</sup>

But juvenile defendants, unlike adults in California, have no right to a jury trial, and no right to bail. Also, most court proceedings involving juveniles are closed to the public and the identity of the child kept confidential, except in the case of an extremely serious offense. <sup>j15</sup> Trials and juvenile court proceedings are called adjudication hearings. If a child is found guilty of the crime at an adjudication hearing, a dispositional hearing is scheduled. At the dispositional hearing, the state decides what would be the court's appropriate response, keeping in mind that the overriding aim of the juvenile justice system is to rehabilitate youthful offenders and get them back on the right track.

The court has various options. A judge may place the child on probation, assess fines, seek restitution, assign the child to community service or place her in a halfway house or foster care. <sup>j16</sup> A juvenile offender also may be sent to a training school or a secure facility. (A secure facility is also known as "lock-up," where the juveniles are not allowed the freedom to leave.) <sup>j17</sup>



All final decrees from the juvenile court are appealable to a higher court<sup>j18</sup> and most juvenile records may be sealed or destroyed with the appropriate request to the court.<sup>j19</sup> Sealing or destroying juvenile records is a complicated process and may not be possible if the child has been convicted of a felony or a misdemeanor involving moral turpitude, or if not enough time has passed since the child's conviction. Usually, records can be sealed after five years from the termination of the juvenile court's jurisdiction or as soon as the juvenile becomes 18. Once sealed, the minor's records may not be opened for inspection unless ordered by the court.<sup>j20</sup>

## ***kids*** in need of supervision

Although they used to be called wayward children, legally speaking, "Children in Need of Supervision" is one of the three types or categories of children that juvenile courts seek to assist. (See *Juvenile Court*) As defined by law, Children in Need of Supervision are persons under the age of 18 who either:

- persistently or habitually refuse to obey the reasonable and proper orders of their parents, guardians or custodian;
- are beyond the control of their caretakers;
- violate any local ordinance establishing a curfew;
- have four or more trancies within a school year (see *Truancy*), or
- have been determined to be children who persistently refuse to obey the reasonable and proper orders of school authorities.<sup>k1</sup>

Children who are thought to be in need of supervision are typically those kids who stay out late, run away from home, refuse to go to school, or who just don't want to listen to anyone.

When these types of children are picked up by police, courts are required to treat them in the least restrictive manner and, when practical, return them to the custody of their parents. If that is not practical, the placement of the child with a relative is preferred if it is in the best interest of the child and would help keep the family together.<sup>k2</sup> Also, instead of making a child a ward of the court, the county juvenile probation department can assign the child to a diversion program to help the child learn to be more responsible. Such programs might include alcohol or drug education, community service, counseling, and/or the opportunity to repair damaged property.

Under no circumstances should a child be taken away from her parents' custody outside of school hours for skipping school or for school disobedience alone. Also, the mere act of not listening to a parent or even running away from home is not necessarily sufficient to establish that a child is beyond parental control or in need of supervision. This is because it must be shown that the child's behavior is habitual or that the child's act of running away was not caused by the parent's action or inaction. For example, a child would not be classified as someone in need of supervision if she has been abused or neglected or, in fact, was pushed out of her home by the parents.

## HELP FOR KIDS WHO HAVE RUN AWAY FROM HOME

### The California Runaway Hotline 800-843-5200

*They provide 24-hour counseling and referral services to kids who have run away from home or need help. They will also provide assistance to get back home or relay a message to the family.*

**Note:** As of 1993, children in California who have run away from home and are 12 years of age or older have the right to remain at a runaway shelter if a professional counselor determines that the minor is mature enough to make such a decision. The law also states that if it is possible that the child could hurt himself or endanger others, or if the minor is an alleged victim of incest or child abuse, he may remain at the shelter.<sup>k3</sup>

## loitering



### 6. Loitering

When police officers encounter a young person or a group of kids hanging out on the streets or in some other public place, the officers usually just encourage them to move along, get to school, or just go home. However, if a minor is causing a disturbance, the officer may arrest and charge him or her with disturbing the peace,<sup>11</sup> which is a misdemeanor.<sup>12</sup> If, on the other hand, it is late in the day and the kids also are in violation of curfew (see *Curfew Laws*), an additional or alternative charge that is considered is loitering.<sup>13</sup>

Loitering, legally classified as a type of disorderly conduct, involves more than just hanging around at a given place for an extended period of time. Instead, before your child can be successfully prosecuted for the crime of loitering, the state must establish that the child was lingering about looking for an opportunity to commit a crime. Simply hanging out and talking to friends by a movie theater, pizza shop, convenience store, or library is not enough to make a case for loitering. However, a child may be arrested if found in a public place under the influence of alcohol or drugs.<sup>14</sup>

**Note:** In California, there is a separate and distinct law involving loitering on or near any school or public place where children are present.<sup>15</sup> This law is primarily in place to protect rather than prosecute minors. As was mentioned above, when prosecuting individuals under this statute, the state must prove that those arrested had some illegal purpose in mind. Loitering is a misdemeanor punishable by a fine of up to \$1,000 or six months in jail, or both.<sup>16</sup>

## *parents' rights and responsibilities*

It seems as though parents have more responsibilities than anything else. Nevertheless, parents do have some very important rights:

**1. Custody and control:** Parents must make important decisions about their children's lives. For example, where the children will live, who they will live with, what they will do from day to day, what school they will attend, when medical care might be appropriate, and what, if any, religion their children will practice. These rights are constitutionally protected and generally cannot be taken from parents unless it can be shown that the parents are unfit.

**2. Cooperation and obedience:** Parents are expected to control their children, and are permitted to discipline them, but must not abuse or neglect them. Sometimes a child refuses to obey the reasonable requests of his parents, runs away from home, refuses to go to school, or is outside parental control. In an extreme situation, parents may go to court and seek to give up legal responsibility for the child. On the other hand, if parents fail to adequately control a child, a court may determine that the child is in need of supervision and declare him a ward of the court. When this occurs, the court sometimes takes custody of the child and responsibility for the child's basic needs and education. (See *Kids in Need of Supervision*)

Children are not required to obey parental orders to do something dangerous or illegal. Parents who allow or encourage children to commit dangerous or illegal acts may be charged with contributing to the delinquency of a minor<sup>p1</sup> child abuse<sup>p2</sup> or neglect.<sup>p3</sup>

**3. Earnings:** Although most parents allow their child to keep money he or she has earned, parents do have a legal right to these wages.<sup>p4</sup> There are, however, some exceptions to this rule. A child's earnings may not be available to parents when:

- The parents have exploited, neglected, or abandoned the child and the child has brought suit to be freed from parental dominion.<sup>p5</sup>
- The child's income is the result of his special talent or athletic ability (the child star or athlete).<sup>p6</sup>
- The child's income is the result of a gift or inheritance.<sup>p7</sup>

**4. Recovery for death or injury:** If a child is killed or injured, parents are entitled to bring a lawsuit to recover costs such as medical or funeral expenses from the person responsible.<sup>p8</sup>

### **Parental Responsibilities**

The most important responsibility of parents is to support their children. Parents are legally obligated to provide their children with all of the necessities of life.<sup>p9</sup> Necessities are not limited to food, clothing, and shelter, but also include medical care. Parents are expected to support their children according to their ability and their station in life, meaning the children should share in the standard of living of both parents.<sup>p10</sup> This responsibility falls equally upon both parents and also applies to children that the parent has adopted.<sup>p11</sup> Failure to provide

adequate food, clothing, shelter, or parental care and supervision may lead to criminal prosecution for neglect.<sup>p12</sup>

If the county is required to support a child, the county is entitled to assignment rights to seek reimbursement from parents who are capable, but have refused, to provide support.<sup>p13</sup> Parents are also required to reimburse the county for the costs of support incurred for detention of a child under a juvenile court order.<sup>p14</sup> Parents must also pay back the county for the cost of legal services provided to minors in juvenile court proceedings.<sup>p15</sup> The duty to provide support to children lasts until the child reaches the age of majority, which is usually 18, or 19, if she is still enrolled in high school full-time.<sup>p16</sup> (See *Emancipation* for exceptions)

The failure of parents to marry does not affect the responsibility to support their children.<sup>p17</sup> If parents are unmarried, or divorce, and cannot agree upon how much each should contribute toward the support of their children, the courts may be called upon to decide. One parent, or the child by a guardian *ad litem*, may bring an action against the other parent to enforce the duty to pay child support.<sup>p18</sup> Alternatively, the county may proceed on behalf of a child to enforce the child's right of support against a parent who fails to provide support.<sup>p19</sup> A court may order one parent to make specified payments to the other for child support.<sup>p20</sup> The court's authority to order a parent to pay child support or to enforce such an award includes the following: a writ of execution or levy<sup>p21</sup>, a wage garnishment<sup>p22</sup>, civil contempt proceedings<sup>p23</sup> or criminal prosecution.<sup>p24</sup>

**Note:** A stepchild (a child from a prior marriage) is generally not entitled to support from a stepparent.<sup>p25</sup> Birth parents remain primarily responsible for child support unless the child has been adopted by the stepparent.<sup>p26</sup> If, however, a stepparent, or other person, provides necessary support to a child in good faith, where the custodial parent neglects to do so, that person may recover the reasonable value of those necessities from the custodial parent.<sup>p27</sup> However, voluntary support paid out for a child is not required to be reimbursed by the natural parents, stepchild or the state, absent a specific agreement.<sup>p28</sup>

## Supervision and Control of Children

Parents are morally responsible for exercising proper supervision and control over their children. However, generally, parents are not legally responsible for the acts of their children.<sup>p29</sup> There are certain exceptions. For example, parents who encourage their children to break the law may be found guilty of contributing to the delinquency of a minor. Also, parents who know or should know that their child engages in improper conduct or who aid or encourage the conduct may be held liable for the acts of their children. Additionally, there are specific statutes that hold parents liable for certain harm caused by their children. These include:

- Injuries from guns: Parents may be required to pay victims up to \$60,000. <sup>p30</sup>
- Willful misconduct: If the child causes injury or death to another, parents may be liable for medical, dental and hospital expenses, up to \$25,000. <sup>p31</sup>
- Destruction of property: Parents may be liable for sums children cannot pay, up to \$50,000. <sup>p32</sup>
- Graffiti: Parents may be liable for the costs of removal, repair, and/or replacement of property, as well as responsibility to keep the property free from graffiti for up to one year. <sup>p33</sup>
- Injuries from tear gas: Parents who have signed a minor's consent form to obtain tear gas may be liable for the child's negligent or wrongful acts or omissions. <sup>p34</sup>
- Fines for truancy: Parents may be required to pay fines up to \$100. <sup>p35</sup>
- Injuries on school grounds; damage to school property; failure to return borrowed school property: Parents may be liable for up to \$10,000, and up to \$10,000 for any reward. The school may withhold grades, diplomas or transcripts until these amounts are paid. <sup>p36</sup>
- Shoplifting: If a child steals from a store or library, the parents may be responsible for up to \$500. <sup>p37</sup>
- Curfew violations: Parents must pay the actual administrative and transportation costs incurred by the police for picking up and returning children to their homes upon a second violation. <sup>p38</sup>

## *police and police encounters*



### **7. Police encounters**

Most encounters with police are positive. Nevertheless, there are some rights and responsibilities that minors should know about in case they are ever approached, questioned, or arrested by the police. These are:

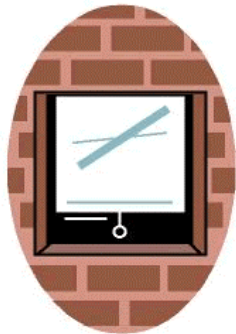
- Never struggle with police. Resisting arrest <sup>p39</sup> or assaulting a police officer <sup>p40</sup> are separate and additional crimes which could be charged. These charges may be brought even when the child is completely innocent of any underlying crime. Resisting arrest or fighting with police officers is also dangerous. Police officers carry guns and other weapons and are trained to use them if they believe they are in danger because of a struggle or for any other reason. If your child is injured by the police, the injuries should be photographed immediately. The officer's badge number and names of any witnesses should be collected for later use.

- “Respectfully decline” to give permission to search. Children enjoy the same protections as adults against unreasonable searches and seizures under the Fourth Amendment to U.S. Constitution. While there are certain exceptions, generally, police only have the right to conduct a full-scale search of a person (including a minor) who is under arrest.<sup>p41</sup> These full-scale searches following arrest extend only to what the juvenile has on his or her person and to places within the person’s immediate reach. However, there are other exceptions. For example, even if a person is not under arrest, the officer is permitted to do a very limited pat-down body search, but only to see if the person is carrying a weapon.<sup>p42</sup> These are permitted for the protection of the officer who may be questioning a suspect. No consent is required to be given for these limited pat-down searches or for searches following arrest. Another exception is where the minor is not under arrest, but the police ask for permission to do a search of his or her backpack, locker or bedroom, for example. If the minor gives permission, he or she will have given up his or her Fourth Amendment rights. On the other hand, those Fourth Amendment rights are protected if the minor respectfully declines the officer’s request to do a search.
- Remain silent. If questioned upon arrest, young people have the right to give only their name, address, parents’ names and phone numbers to police. They have the right to refuse to answer any other questions until they have spoken to their parents and an attorney and must be advised of these rights.<sup>p43</sup> Even if a juvenile begins to answer some questions, he or she may stop at any time. Just like adults, minors are entitled to the Miranda advisements, which includes the warning that anything a minor says to the police can be used against them in court.
- Call your parents. When taken to a police station or juvenile hall, minors have the right to place two telephone calls to parents or a responsible friend within one hour.<sup>p44</sup> Officers are required to tell anyone who has been arrested what charges they are facing, if they ask.<sup>p45</sup> Therefore, a minor in custody should ask for this information, so they can tell their parent where they are and why. Probation officers usually call parents on behalf of the minor who has been arrested. Nevertheless, when the young person has been given the opportunity to make a call, he or she should be sure to call someone whom he knows will be available. The minor should be prepared to give enough information to the parent so the parent may seek legal help. Even if parents cannot afford to hire a private attorney, juvenile defendants are entitled to have a court-appointed attorney represent them in juvenile court proceedings.<sup>p46</sup>
- Get your court date. When released, juveniles should be sure to find out when they are due back in court. Like adults, they should never be late or miss a court appearance. If the minor does not show up in court at the required time, a warrant may be issued for his or her arrest.<sup>p47</sup>
- Don’t talk about your case. Finally, young people should avoid talking to anyone except their lawyer(s) or parent(s) about any criminal charges brought against them. However, young people should be encouraged to talk openly and honestly with their lawyer. Without all the facts, an attorney may not be able to adequately defend the minor’s interests. But if the child talks about the case to their friends or anyone else, the police may be able to use those statements against the juvenile in court.



# *privacy and kids*

Privacy, the desire for it or the lack of it, is a concern to all of us. This is particularly true today when so much information about every aspect of our lives is stored in computers around the world, and new technologies have brought the world into our homes. Issues related to our privacy rights come up in a variety of situations or settings, from those involving searches by police to situations involving reporters and their need to keep the sources of their stories private. Young people, however, are usually more concerned about issues related to privacy which come up at school or at home or involve personal decisions. Unfortunately, these areas of law are vast and only a very limited amount of time can be spent on them in this booklet.



## **8. Privacy**

### **Privacy at School**

At the outset, parents and youngsters should realize that our Constitution protects only the "reasonable expectation" of privacy from "state intervention." Whether a reasonable expectation of privacy has been violated and whether the state was involved in the violation have always been points of controversy in privacy rights cases. Ten years ago, the U.S. Supreme Court decided that although teachers were considered agents of the state and therefore must respect the constitutional right to privacy, searches of students could be conducted as long as they are reasonable and can be justified under the circumstances. In that case, a teacher found a 14-year-old student smoking in the bathroom, which was a violation of school rules. After taking the student to the principal's office, the assistant vice principal searched the student's purse, and found cigarettes, marijuana, and other paraphernalia. The Court found the search to be reasonable under the circumstances.

In a more recent case decided in 1995, the U.S. Supreme Court upheld a public school policy authorizing the random drug testing of student athletes. In this case, although the Court agreed that the procedure of collecting urine is a search covered by the Fourth Amendment, the Court said that the reasonableness of a search is determined by comparing the impact on the individual's privacy rights with the legitimate governmental interests. Finding that student athletes have a lower expectation of privacy than other students, and that the procedure used was relatively unobtrusive, the Court held that the invasion of the student's privacy was permissible.

In contrast, in a 1985 California case, the California Supreme Court found the search of a student who was walking through the school grounds with his friends to be unlawful. The student was carrying a black bag, which he seemed to be trying to conceal from the assistant principal. After the student refused to hand over the black bag, the assistant principal forcefully took it, finding marijuana inside. The Court found the search to be illegal, as the assistant principal had no prior knowledge of, or information concerning the student's use, possession or sale of drugs. The Court also noted that: *"Neither indiscriminate searches of lockers nor more discreet individual searches of a locker, a purse or a person, here a student, can take place absent the existence of reasonable suspicion. Respect for privacy is the rule -- a search is the*

*exception. "*

## **Privacy Rights at Home**

Youngsters often ask whether their parents can legally give police permission to search their rooms at home. As a general rule, the answer to this question is yes. Most courts have stated that parents (or guardians) have a property interest in the entire home and are allowed to consent to the search of that property or to search it themselves. Also, courts have felt that children who remain at home are under the authority of their parents, therefore weakening their privacy rights with regard to their rooms, and items in their rooms. This general rule, however, should not be taken too far. For example, roommates generally only have the authority to allow a search of areas they may use or common areas within the home (kitchen, bathrooms, living rooms, etc.). A California case also outlined some specific protections for minors regarding a child's personal property.

## **Can a Parent Read a Child's Diary or Listen in on Phone Conversations?**

There exists little law on this issue. The Constitution does not protect you from private acts that you believe may be in violation of the right to privacy. Children could, however, sue their parents in an individual civil action for a violation of privacy. Nevertheless, courts would likely consider the parent-child relationship and the parents' right to raise their children as they see fit. Absent an extreme violation of a child's privacy rights resembling abuse, courts would likely defer to the parent's child-rearing prerogative, and would not consider the parent's actions a violation of the child's rights.

## **Privacy and "Private Decisions"**

This is an area of privacy that is of much interest to parents and their children. It involves questions of when, and if, children can make important, yet highly personal decisions without their parents' knowledge. Parents who have custody of their child have the right to make many important decisions about their child's life and life plans. Yet in California, there exists a number of circumstances in which youngsters have the authority to make certain decisions without parental involvement. This has been done in order to protect the privacy rights of young people and often involves medical or quasi-medical decisions.

Some of these situations include:

- When a child is 12 years old or older and seeks medical treatment related to an infectious, contagious, or sexually transmitted disease. <sup>p48</sup>
- When a child is 12 years old or older and seeks medical treatment for rape. <sup>p49</sup>
- When a child is 12 years old or older and seeks medical treatment related to a drug or alcohol problem. <sup>p50</sup>
- When the child has been found to be of sufficient maturity and is seeking medical care related to the care and prevention of pregnancy (this includes birth control information and devices and/or an abortion or any other care, short of sterilization).

California has also made it easier for youngsters who are 15 years old and older to obtain medical care when they show that they are living separate and apart from their parents and managing their own financial affairs.<sup>p51</sup>

**Note:** Minors who are married, have joined the military, or have received a formal decree from a court acknowledging that they have been emancipated need not confer with their parents about any decisions that they make.

## *receiving stolen property*

Like other crimes mentioned in this booklet, receiving stolen property is one crime that kids often commit. Kids sometimes buy stolen items because they are much cheaper than new items. Many young people also believe that buying stolen items is not wrong since they didn't steal the items themselves, and anyway, "how could I get caught?" Examples of such stolen items include stereos, CD players, clothing, weapons, car accessories, and cars themselves. There are two things, however, that parents and their kids should know about the crime of receiving stolen property.

First, and most important, is the fact that such conduct is a crime.<sup>r1</sup> This is true regardless of the value of the stolen item or the items received. If, however, the value of the item or items received is more than \$400, then the punishment for the crime is increased.<sup>r2</sup>

Second, to be guilty of the crime of receiving stolen property, the person receiving such items must know that the items have been stolen.<sup>r3</sup> Knowledge can be proven in court by circumstantial evidence. That means that the court will examine all of the facts to determine whether or not your child knew that the items were stolen: How much was paid when compared to what the item would have cost in a store? Was there an attempt to flee from authorities or to conceal such items? From whom and where were the items purchased? Were there any identifying marks removed from the items? Did the child have knowledge that similar items had been recently stolen? And finally, what were the child's past dealings with whoever sold the stolen property?

# ***schools and school rules***

In California, there are volumes of books which make up the Education Code and other laws that exist to regulate the operation of the elementary and secondary schools in this state. As parents, it is important to know something about the most critical school rules, how schools operate, and how best to communicate with school officials.



## **9. School Rules**

### **Structure of Schools**

In general, public education in this state is governed by a combination of state law and local school board discretion. For example, the state usually decides the curriculum or what your child will be taught, graduation requirements, attendance requirements, and requirements for teacher certification. Local school boards are then given the authority for hiring and firing teachers, choosing textbooks, and resolving disputes among parents, teachers, and students. Also, school boards generally have some discretion when applying state regulations.

Each local school district has a group of people who supervise the day-to-day activities of its schools. These individuals are called school administrators. Their activities are diverse and include the maintenance of school property, curriculum development, budgeting and finances, student transportation, and personnel supervision. Although the organizational structure of schools may vary from district to district, key administrative personnel include:

- A board of education or school board whose members are generally elected to office. They are usually not educators nor are they paid for their services. Meetings are required to be open to the public and are held regularly. Members of the board (usually five to nine in number) are primarily responsible for hiring the superintendent, developing school policy, and deciding on curriculum materials.
- A superintendent acts as the chief administrator of the school system. He is required to report to the school board and is responsible for all day-to-day activities necessary to run the school system.
- The principal is responsible for the operation of a given elementary or secondary school, including the supervision of teachers and the protection of the health and safety of all students and staff. The principal also sets the tone for the school and may be appointed by either the school board or the superintendent.

It is important to understand how your child's particular school or school district operates so that you can better deal with problems that may arise. The names of school employees are public information and should be made available to you upon request. If you are unhappy about the way in which your child's school is being run and have had little success working through the regular channels, you could consider organizing a group of concerned parents to deal with the

administrators and others in power. Be persistent, and be prepared for some of the classic responses which attempt to shift the responsibility for the problem to someone else ("Yes, but it's the kid's fault"), to minimize the existence of the problem ("Yes, but most of our students are doing fine"), or to delay any action on a remedy ("Yes, but the schools don't have the money"). Remember, little is more important than a child's education.

*\*In large school districts, "other administrators" may include anywhere from 25 to 500 people. Ask the superintendent for an organizational chart of your school district. Find out the structure of the organization and names and phone numbers of key school district people.*

Private schools, on the other hand, are owned and operated by an individual, a corporation, or some type of private or nonprofit association. Most have a board of trustees which acts, in part, as a school board, but whose members generally play a much greater role in the overall financial health of the school than in matters of curriculum. When dealing with a private school, it is best to work with your child's teacher(s) as well as the school principal or headmaster.

## **School Rules**

There are a great variety of school rules. Some may be unique to a particular school or even classroom. Other school rules may have come about in the form of a directive from a school board, while some rules are mandated by state or federal law. Knowing the kind of school rule with which you are dealing is important if you seek to change or challenge the rule. Probably the most important school rules to know deal with suspensions and expulsions. In other words, under what circumstances or for what reasons can a child be told to leave school either temporarily (a suspension) or permanently (an expulsion).

**Suspensions:** In California, students may be suspended if the pupil has:

- Caused, attempted to cause, or threatened to cause physical injury to another person.
- Willfully used force or violence upon the person of another, except in self-defense.
- Possessed, sold, or otherwise furnished any firearm, knife, explosive, or other dangerous object without written permission from a certificated school employee and the principal.
- Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of any controlled substance, an alcoholic beverage, or an intoxicant of any kind.
- Unlawfully offered, arranged, or negotiated to sell any controlled substance, an alcoholic beverage, or an intoxicant of any kind, and then either sold, delivered, or otherwise furnished to any person another liquid, substance, or material and represented the liquid, substance, or material as a controlled substance, alcoholic beverage, or intoxicant.
- Committed or attempted to commit robbery or extortion.
- Caused or attempted to cause damage to school or private property.
- Stolen or attempted to steal school property or private property.
- Possessed or used tobacco, or any products containing tobacco or nicotine products, excluding use of the pupil's own prescription products.
- Committed an obscene act or engaged in habitual profanity or vulgarity.
- Had unlawful possession of, or unlawfully offered, arranged, or negotiated to sell any

- drug paraphernalia.
- Disrupted school activities or otherwise willfully defied the valid authority of any school personnel.
- Knowingly received stolen school property or private property.
- Possessed an imitation firearm.
- Committed or attempted to commit a sexual assault or a sexual battery.
- Harassed, threatened or intimidated, or attempted to intimidate a pupil who is a witness in a school disciplinary proceeding.

Suspensions should ordinarily occur only as a last resort and be in response to an offense that occurred on school grounds, while coming to/from school, during the lunch period (whether or not on school grounds), or while on or going to/from a school-sponsored activity. Also, sexual harassment, incidents of hate violence, or threats or intimidation by students in grades 4-12 may also be grounds for suspension.<sup>s1</sup> Additionally, terroristic threats to cause the death or great bodily injury to another, or to damage school property in excess of \$1,000, constitute grounds for suspension or expulsion even if the student did not actually intend to carry out the threat.<sup>s1A</sup> Finally, in most circumstances, the school must notify the police when a pupil has been suspended. This is particularly true if the reason for the suspension was a violation of the Penal Code.<sup>s2</sup>

**Expulsion:** Many of the same rules and grounds which apply to suspensions also apply to expulsions. Expulsions, however, must be recommended by a school principal for any students who commit the following acts, unless the circumstances make expulsion inappropriate:

- Cause serious physical injury to another, except in self-defense.
- Possess a knife or other dangerous object at school.
- Sell a controlled substance, except for a first offense of selling less than an ounce of marijuana.
- Robbery or extortion (blackmail).

In addition, a student can be expelled for committing any of the acts for which suspension would be appropriate, if other means of correction are not feasible or have failed, and if the presence of the student poses a danger to the safety of other students.<sup>s3</sup> Students are usually entitled to a hearing at which they can defend their actions.

### **When Should Parents Consider Challenging the Suspension or Expulsion of Their Child From School?**

- If the child was suspended or expelled for violating a rule of which she had no notice; for instance, if the school has no disciplinary code or if this code was never posted or in any way made available to students.
- If the child was never told what he was actually accused of, if the act for which he was accused was not defined as one that could result in a suspension or expulsion, or if he was never given the opportunity to explain his side of the story.
- If rules at the school are arbitrarily or discriminatorily enforced, so that some students are never punished, while others are always the ones being suspended or

- expelled.
- If the basis of the school's action is related to tardiness, truancy, or another absence from school (see *Truancy*).
- If the school did not follow the mandated due process procedures or its own district rules. If the child is disabled and the behavior for which he is being suspended or expelled relates to that disability. If the child says that she did not engage in the behavior charged by the school.<sup>s4</sup>

**Note:** In California, it is against the law for teachers and/or school administrators to hit pupils (use corporal punishment). Force, however, can be used by school officials to protect others, to quell disturbances that threaten physical safety, in self-defense, or to confiscate dangerous weapons or objects.<sup>s5</sup>

## sex and kids



### 10. Sex and kids

It is against the law in California for minors to have sex, or for anyone to have sex with a minor. This is true in spite of the fact that 60 percent of all teenagers in this state are sexually active. The only exception to this law is if a minor is married to his or her sexual partner.

Laws which make it unlawful to have sex with minors have been called statutory rape laws. These laws make the act of sexual intercourse illegal because it makes it legally impossible for a minor to consent to intercourse, and therefore, the act is considered rape. So, even if the minors are in love and enter into the sexual relationship freely, legally the act is still rape.

In California, statutory rape is called "unlawful sexual intercourse" and as of 1993, it became an act that protects young males as well as females. More specifically, the law reads that unlawful sexual intercourse "is an act of sexual intercourse with a person who is not the spouse of the perpetrator, if the person is a minor ...". A minor is a person under the age of 18.<sup>s6</sup>

A person who engages in unlawful sexual intercourse with a minor and is not more than three years older than the minor is guilty of a misdemeanor. If, however, the perpetrator is more than three years older than the minor, he may be found guilty of a felony/misdemeanor punishable by imprisonment in county jail or state prison for not more than one year. Also, a person who is over 21 years of age and engages in sex with someone under the age of 16 can be put in state prison for two to four years.<sup>s7</sup>



In general, there are no excuses or defenses for statutory rape in California. California also does not require that the person involved be chaste (a virgin) prior to having sex with the defendant.<sup>s8</sup> California will, however, reduce the charges, dismiss a case, or allow for an acquittal when and if it appears that the underage person presented herself as someone who was 18 years old or older, or if the minor was involved in activities which would lead the defendant to reasonably believe that she was "of age," if, for example, she was drinking in a bar or enrolled in college.

In practice, prosecutions for statutory rape are quite rare. Prosecutions are sometimes brought, however, when parents have filed a complaint against a particular person and wish to press charges, or when one of the persons engaging in the unlawful sexual conduct is quite a bit older than the other person. The state is also more likely to prosecute these types of cases if someone involved is under the age of 14. This is because there is a separate California law that makes unlawful "lewd or lascivious acts" upon the body of a child under the age of 14. In these circumstances, sexual intercourse is not an element of the crime and the punishment can be up to eight years in state prison. Lewd or lascivious acts with a minor who is 14 or 15 years old is a public offense punishable by imprisonment in a county jail for not more than one year if the perpetrator is at least 10 years older than the victim.<sup>s9</sup>

Kids are also forcibly raped. In fact, of all forcible rapes each year, teens are the victims in nearly one third of the cases. Forcible rape involves using force, fear, coercion, or trickery to acquire sex. In most cases, forcible rape is a crime of violence. Nevertheless, when kids are raped, it usually occurs in one of three ways: either they are preyed upon by strangers; they are victimized by an acquaintance or date (date rape); or they are taken advantage of by a relative or a spouse (incest, child abuse or spousal rape). Rape, in any of these forms, is a very serious crime and is punishable by up to eight years in prison.<sup>s10</sup> Continuous sexual abuse of a child under age 14 over a period of three months or longer is punishable by up to 16 years in prison.<sup>s11</sup>

### **What Should a Young Person Know About Rape?**

If a young person has been raped, it should be reported to the police. Immediate medical help and psychological assistance should be sought. Many, if not all, counties in California have victim assistance programs, sexual trauma centers and rape crisis hot lines. These programs are often associated with a county district attorney's office and work with the state to help find and prosecute the rapist. At the same time, these programs offer counseling, financial assistance and other services to help victims of this crime overcome the trauma associated with being raped.

Young people in California who are 12 years of age or older have the right to acquire treatment related to rape or sexual assault without parental consent. This law covers medical doctors, psychiatrists, psychologists and mental health counselors, as well as those acting as chief administrators of programs that provide counseling to rape victims.<sup>s12</sup>

Police reports involving rapes are confidential and are customarily released only by police agencies to prosecuting and defense attorneys or by court order.<sup>s13</sup> This is true even when the rape victim is a minor and it is the minor's parents who wish access to the rape report. The only exception to this rule is when the parent of the victim is accused of raping or sexually molesting the child.

## smoking and kids

Facts showing that smoking can have detrimental effects on your health, and that 90 percent of adult smokers began smoking in their teens motivated the Legislature to adopt legislation designed to reduce and eventually eliminate the use of tobacco products by minors. In California it is against the law for a minor to purchase, receive or possess tobacco products. It is also against the law in this state to knowingly sell, give, or furnish tobacco products (including cigarette paper and chewing tobacco) to kids under the age of 18.<sup>s14</sup>



### 11. Smoking

One of the ways the state attempts to discourage the sale and distribution of tobacco products to minors is by requiring retailers to post notices in conspicuous places advising that they are required to check the identification of anyone who appears to be under the age of 18 years old.<sup>s14A</sup> Another method intended to discourage the sale of tobacco to minors is through the regulation of cigarette vending machines. Stores which are licensed to sell tobacco products must, if they have vending machines, register the machines with the California Department of Health Services and must comply with regulations regarding the location and availability of these machines. Individuals or store owners who violate these laws can be fined up to \$6,000 and have their license to sell such products suspended or revoked.<sup>s15</sup>

**Note:** Although it is the store owner and not the minor who will get in trouble if tobacco products are sold to a minor, a young person who possesses false identification in order to make such purchases is violating the law and may be prosecuted for that conduct. Possession of a false I.D. is a misdemeanor.<sup>s16</sup>

Parents and kids should know that there are restrictions on where people can smoke. For example, students (whether in elementary or secondary schools) cannot smoke or use tobacco products while on school grounds or attending a school-sponsored activity (see *Schools and School Rules*) without the threat of suspension or expulsion. Additionally, many cities restrict the places where you can smoke or require that smoking or non-smoking areas be established in public places, restaurants, and places of employment and entertainment. These laws, of course, apply to both adults and minors.

### Can Parents Get in Trouble for Giving Their Kids a Cigarette?

Although it might be argued that placing cigarettes in the mouths of very young children could amount to abuse or neglect, little law exists on this point, at this time.

## *stealing* and shoplifting



### **12. Shoplifting**

Laws that outlaw theft in California come in many different forms. Stealing or shoplifting is legally called larceny or theft and is defined as the stealing, taking, carrying, or driving away with someone else's personal property. This means a parent or a child can be charged with larceny for failing to pay for something, whether it is a meal at a restaurant or merchandise in a store. Fraudulent use of a credit card and credit card theft are also common larceny offenses. This also applies to the theft or forgery of a bank access card to obtain anything of value or to initiate any transfer of funds. Along these lines, any person who uses the number or code of a credit card, personal identification number, computer password, access code, bank account number or any other number as a way to avoid paying for a service or product is guilty of larceny.<sup>s17</sup>

There are two degrees of theft: grand theft and petty theft. Grand theft involves stealing or taking money, property or services which have a value in excess of \$400, or farm crops or agricultural products valued in excess of \$100; taking property from another person; taking an auto or firearm; or taking certain animals, gold dust or quicksilver from someone. Petty theft generally involves a stealing or taking of something worth less than \$400.<sup>s18</sup> The punishment for grand theft is up to one year in a county jail or state prison.<sup>s18A</sup> Petty theft is punishable by a fine of up to \$1,000 or six months in a county jail, or both.<sup>s19</sup> The use of a gun may result in a state prison of between 16 months and 3 years. Some forms of theft and other crimes which arise from gang activity are also subject to enhanced penalties.<sup>s20</sup>

### **Computer Access and Theft**

Today, California law makes unlawful:

- The unauthorized access of a computer.
- The devising and execution of schemes to obtain money, property, or services with false or fraudulent intent through a computer.
- The unauthorized deletion, damage, or destruction of systems, networks, programs, databases, or components of computers.
- The disruption or denial of access to authorized users of a computer.
- The introduction of contaminants or viruses to a computer.

In addition to the criminal statutes, victims have the right to file civil suits for damages and other expenses.<sup>s20A</sup> Civil Code section 1714.1. In some cases, parents can be held responsible for their child's illegal activities. Criminal penalties include fines of up to \$10,000 and state imprisonment for up to three years, or both.<sup>s21</sup>

A few crimes closely related to larceny are embezzlement and the unauthorized use of a

motor vehicle or "joyriding." Embezzlement differs from ordinary theft because the person taking the property is in a position of trust, similar to what might occur if you took money for personal use from a Boy Scout troop's bank account under your supervision.<sup>s22</sup> Joyriding, or the unauthorized use of a motor vehicle, is distinguished from larceny because there is often no actual intent to keep the car permanently. Instead, the intent is to take the car temporarily and drive it around without the owner's consent. This is not to say that those who take someone else's car for the purposes of a ride necessarily return it or even wish to; only that they do not intend to keep it. Although joyriding is often treated as a misdemeanor, the criminal penalty for joyriding can include a fine of up to \$10,000, up to four years in prison, or both, if the car taken is an ambulance, police car or fire vehicle, or a vehicle modified for use by a disabled person.<sup>s23</sup>

**Note:** While they involve the taking of property, robbery, extortion and car-snatching are considered crimes against persons rather than property crimes. This is because these crimes occur by way of force, fear, or intimidation against someone and are far more serious than simple theft crimes or larceny in which the owner of the property is often not around. Remember, involvement in most of these crimes may also be grounds for suspension or expulsion if the crimes take place on school grounds and involve school property or the property of pupils. (See *Schools and School Rules*)

## Truancy

In California, the law requires that most children between the ages of six and 18 attend school or classes full-time.<sup>t1</sup> Legally, children who are supposed to attend school full-time but who are not in school without a valid excuse for three or more days over the course of a school year, or those who are tardy in excess of 30 minutes without a valid excuse on three occasions in a school year, are truants.<sup>t2</sup>

### What are Considered Excused Absences?

- Justifiable personal reasons, including a court appearance, observance of a religious holiday or ceremony, or an absence requested in advance by a parent and approved by the school.<sup>t3</sup>
- Medical reasons, illness, quarantine, a medical or dental appointment, or attendance at a funeral of an immediate family member.<sup>t4</sup>
- For religious training, upon the submission of written parental consent, pupils may participate in religious observances or instruction for up to four days per month under a release-time plan whereby the child shall attend school for at least the minimum school day. Individual school districts have the discretion to allow or prohibit absences for religious training.<sup>t5</sup>

**Note:** Children excused from public school for justifiable reasons must be allowed to make up their work and be given full credit for that work.<sup>t6</sup>

Pupils receiving instruction full-time at a private school or through a tutor under a variety of circumstances may be exempt from attending public school.<sup>t7</sup>

If a student is found to be truant, the school must notify the child's parent or guardian by means reasonably sure to reach the parent (such as first-class mail). The notice must state that: the pupil is truant; the parent should compel attendance; and if the parents do not compel school attendance by their children, they themselves may be guilty of an infraction and are subject to prosecution.<sup>118</sup> The letter also must inform parents that there are alternative programs available for the child, that they can meet with school officials to discuss the problem(s), that their child may be subject to prosecution if she stays out of school without a valid excuse, and that their child's driving privileges may be subject to suspension, restriction or delay.<sup>119</sup> The parents are recommended to come to school with their child for one day.

If all of these steps have been taken and the child is reported as truant four or more times during the school year, he may be considered a "habitual truant." At that time, a school attendance review board made up of community and school representatives will determine if community services can help the child and his family resolve the truancy problem, or if the situation requires a juvenile court petition.<sup>110</sup> If this occurs, the juvenile court has the power to require that the parents personally deliver the child to school each day for the remainder of the school term, as well as force the child's parents to pay a cash bond assuring their child's attendance.<sup>111</sup>

A criminal complaint also can be filed against a parent who fails to comply with the order of the school attendance review board or the court.<sup>112</sup> Penalties for violations include a fine of up to \$100 upon a first conviction, \$250 upon a second conviction, and not more than \$500 upon a third or subsequent conviction. In lieu of fines, the court may order the parent to be placed in a parent education and counseling program. The Court may also order the parent to enroll the pupil in the appropriate school or educational program. Willful violations of the court's order are punishable as civil contempt with a fine of up to \$1,000.<sup>113</sup> Additionally, children found guilty of truancy by a juvenile court can be made wards of the court and be instructed by the court to attend school.<sup>114</sup> As a last resort, a court may even lock up a habitual truant who simply refuses to attend school.

**Note:** Parents who have refused to abide by the state's education laws or have failed to cooperate also have been prosecuted for neglect and/or for contributing to the delinquency of a minor.<sup>115</sup> Habitual truants between the ages of 13 and 18 may have their driving privileges suspended or delayed by a court for one year as a result of such conduct.<sup>116</sup>

# Vandalism



## 13. Vandalism

Graffiti, a common type of vandalism among kids, was discussed earlier in the booklet. Vandalism, however, has a broader definition which includes maliciously defacing, damaging, or destroying someone's real or personal property.<sup>v1</sup> For example, maliciously scratching a car or breaking someone's windows is considered vandalism. In California, other types and more specific forms of vandalism or malicious mischief include:

- Removing, entering, or destroying any part of a railroad or tracks.<sup>v2</sup>
- Throwing or depositing oil, glass, nails, wires, cans or other substances likely to injure people upon a public highway.<sup>v3</sup>
- Removing or damaging street barriers, signs and lights on highways or injuring telegraph, telephone, cable television lines, any electrical lines or other public utilities or climbing on telephone poles or transmission lines without permission.<sup>v4</sup>
- Train wrecking, shooting at trains, and shooting missiles at trains or vehicles, such as with a slingshot.<sup>v5</sup>
- Maliciously poisoning, torturing, killing or being cruel to animals.<sup>v6</sup>
- Entering an occupied or unoccupied dwelling and damaging, injuring or destroying property therein.<sup>v7</sup>
- Removing, defacing or altering landmarks, trees used as boundary markers and other such objects with intent to destroy them.<sup>v8</sup>
- Willfully and maliciously cutting, breaking, destroying or otherwise injuring bridges, dams, canals, aqueducts, reservoirs, or other waterway barriers or structures.<sup>v9</sup>
- Masking or removing signs and lights directing ships, or exhibiting false lights.<sup>v10</sup>
- Destroying or tearing down legal notices before the time for which they were to remain has expired.<sup>v11</sup>
- Injuring or destroying written instruments such as wills and other such documents. If it is done with the intent to falsify the document, it is a felony punishable by a state prison term.<sup>v12</sup>
- Opening or reading a sealed letter or envelope without authority to do so.<sup>v13</sup>
- Injuring works of art, objects of archeological or historical interest, or improvements such as trees, monuments or ornaments.<sup>v14</sup>
- Tampering with fire alarm apparatus and giving false alarms.<sup>v15</sup>

In most instances, the punishment for acts of vandalism is similar to that imposed for acts of graffiti. As mentioned earlier, parents can be, and often are, held liable for the vandalistic acts of their children. This is particularly true if their kids have destroyed school property. (See *Graffiti*)

Finally, acts of vandalism which pose particular dangers to the public, are directed

toward animals, are racially motivated, or stem from feelings of religious hatred or persecution are often treated as felonies. (See *Hate Crimes*)

## ***work, work permits and taxes***

### **Work Permits**

In California, as in all states, laws that regulate the ability of youngsters to work are generally divided into two categories. The first category of laws regulates how and when a child is permitted to work, i.e. work permits. In California, youngsters between the ages of 12 and 18 may obtain a work permit. With some exceptions, it will only allow them to work on school holidays or vacations.<sup>w1</sup> Children who are 14 and 15 years old, on the other hand, also may work on school days as long as they follow these rules:

- They work no more than three hours on a school day and no more than 18 hours in a school week.
- They work no more than eight hours on a non-school day and no more than 40 hours in a non-school week.
- During the period that starts with the day after Labor Day and ends at midnight on May 31, their workday may not begin earlier than 7 a.m. or end later than 7 p.m.
- From June 1 through Labor Day, their workday may not begin earlier than 7 a.m., but it can end as late as 9 p.m.

Also, a full-time work permit is available to a minor aged 14 to 16 if, among other things:

- A parent or guardian presents a sworn statement that he or she is incapacitated; the death of one of the parents causes the family to need the minor's earnings.
- A minor is unable to live with his family and needs earnings to survive.
- The minor resides in foster care or with a guardian, and obtains the written permission of her foster parent, guardian or social worker.

A child over the age of 16 can obtain a full-time work permit, while those over 18 years of age do not need work permits. Finally, only a few industries are exempt from the age restrictions in the child labor statutes. For example, children of any age may deliver newspapers or perform in television, movies or theatrical productions.<sup>w2</sup>

Work permits are issued by the State Superintendent of Instruction or by an authorized school district. In order to obtain a work permit, the minor and his parents/guardians must provide the state with the school record of the minor (age, grade and attendance), evidence of age, and a written statement from the prospective employer confirming that the work is waiting. You also must explain your child's type of work and produce a health certificate from a doctor stating that the minor is physically fit to perform the specified work.<sup>w3</sup>

### **Labor Laws**



The second category of laws which regulate children at work are state labor codes. These laws are intended to regulate employment practices and the type of work young people are permitted to do. Violation of these laws carries civil and criminal penalties. Often, they outlaw the use of minors in dangerous occupations or in jobs that might place them at risk of being exploited.<sup>w4</sup>

Both federal and state laws set minimum wages and overtime pay rates.<sup>w5</sup> As of March 1, 1998, state law requires that employees be paid at least \$5.75 per hour and that they be paid one-and-a-half times their regular pay rate for work in excess of 40 hours per week.<sup>w6</sup>

## **Taxes**

Young people may be required to file federal and state income-tax returns. Generally, filing requirements for a "dependent child" (a child who is receiving more than half of her support from her parents and is under the age of 19 or a full-time student under the age of 24) are the same as for any other U.S. citizen or resident. In short, a dependent child must file an income-tax return if:

- The minor has unearned income of more than \$1, and the total income exceeds \$750 during the tax year.
- The minor has total earned and unearned income in excess of the basic standard deduction (\$4,700 in tax year 2002).

However, if a child is under the age of 14, a parent may elect to include that child's interest income on their own tax return if the child:

- had income only from interest and dividends;
- had income less than \$7,500;
- made no estimated tax payments during the year; or
- received no overpayments on his previous return, and no federal tax was withheld.

If the parent files for the child, the child does not have to file a separate return. These amounts may differ from year to year, and are different if your child is married, or blind. Also, if the child is a full-time student, the child may be claimed as a dependent until reaching the age of 24. To qualify as a student, your child must be a student during some part of five different months of the calendar year (not necessarily consecutive), and must be:

- a full-time student at a school that has a regular teaching staff, course of study, and regularly enrolled student body in attendance; or
- a student taking a full-time, on-farm training course given by a school or a state, county, or local government.

**Note:** A dependent child's income is not included on a parent's return even though the parents have the right to those earnings and may have actually received them. If a dependent child with taxable income cannot file an income-tax return, a parent or guardian must file it for the child. Also, if your child cannot sign her return, you should sign your child's name followed by the words "parent (or guardian) for minor child." Finally, if the minor child's tax is not paid, the parents (or guardians) may be liable for that tax.

*zero tolerance*



#### **14. Zero Tolerance**

"Zero Tolerance" is a term which over the last several years has been used more and more by individuals in government, at schools, and in the news media to describe the degree to which we, as a society, should be willing to accept (or tolerate) certain kinds of behavior. For example, to what degree should we be willing to accept the use of drugs or the possession of weapons by students on campus? And to what degree should we be willing to accept the consumption of alcohol by teenage drivers or minors at school? Many of those who have used the term "zero tolerance" have argued that our society's degree of acceptance should be zero (or not at all). In some cases, legislative bodies and/or school officials have passed laws or developed policies based on notions

of zero tolerance. In most cases, this has been done as a way to crack down on behaviors that society or schools are simply no longer willing to accept. Others have argued, however, that many zero tolerance policies or programs are simply unrealistic, arbitrary, and often unfair. For example, students have recently been expelled from schools under zero tolerance programs designed to prohibit the possession or use of weapons or alcohol at schools or for possessing a Swiss Army knife or having alcohol in their hotel rooms while on a school-sponsored field trip.

Whether fair or not, parents and kids should realize that in a world where many believe that kids abuse the law, such policies are becoming more common and, as a result, schools, as well as the courts, are finding it more difficult to accept any excuse for conduct that they believe is simply no longer acceptable. Try to become aware of such programs or policies in your schools and community.

# LEGAL TERMS YOU AND YOUR CHILD SHOULD KNOW

## A

**Abandonment of a child:** when a parent fails to provide any financial assistance to, and/or communicate with his or her child over a certain period of time, a court may declare that child legally abandoned. Legal abandonment also occurs when a child is physically abandoned by his or her parent(s). (For example, left at the doorstep of another.)

**Accomplice:** someone who voluntarily helps another person commit a crime.

**Acquaintance rape:** the act of being raped by someone known to the victim, such as a date, neighbor, or "friend."

**Adjudicatory hearing:** the procedure used to determine the facts in a juvenile case; similar to an adult trial, but generally closed to the public.

**Age of majority:** the age (usually 18) at which a person becomes an adult, as specified by state law, and acquires both the rights and the responsibilities of adulthood.

**Aggravating factors:** factors that might increase the seriousness of an offense. The presence of these factors may be considered by the judge and jury.

**Aid and abet:** To actively, knowingly, intentionally, or purposefully assist someone in committing a crime.

**Appeal:** to resort to a higher court for the purpose of obtaining a review of a lower court's order. The person who seeks such a review is called an appellant and the person against whom the appeal is filed is called the appellee.

**Arraignment:** a court session at which a defendant is charged and enters a plea. For a misdemeanor this is also the defendant's initial appearance, at which the judge informs him or her of the charges and sets the bail.

**Arrest:** to take a person suspected of a crime into custody.

**Assault:** to attempt to hurt someone (physically) in a way that makes the victim feel immediately threatened. There is no need for physical contact.

**Attempt:** an effort to commit a crime that goes beyond mere preparation but does not result in the commission of the crime.

**Attorney:** a person who has a law degree and is licensed by the state to advise and represent persons in legal matters.

## B

**Bail:** money or property usually put up by the accused or his or her family to allow his or her release from jail before trial. The purpose of bail is to assure the court that the defendant will return for trial.

**Battered child:** a child who has been the victim of physical abuse.

**Battered child syndrome:** the term used to describe the syndrome whereby adults who were abused as children grow up to abuse their own children.

**Battery:** any intentional, unlawful physical contact inflicted on one person by another without consent.

**Best interests of the child:** this is the standard courts use when deciding issues involving custody and visitation rights, or whether to approve adoptions and guardianships. This standard requires the courts to consider many factors such as the health of the parent or guardian; the child's preference; and the ability of the parent or guardian to provide the child with food, shelter, clothing and medical care before arriving at what they believe is in an individual child's best interest.

**Beyond a reasonable doubt:** the level of proof required to convict a person of a crime. It does not require that one be "convinced 100 percent," but does mean there should be no reasonable doubts as to a person's guilt.

**Booking:** the formal process of making a police record of an arrest.

**Burden of proof:** the obligation of a party to prove his or her allegations during a trial. Typically, the plaintiff or the prosecutor must prove whatever allegations he or she included in his or her complaint in order to win the case. Thereafter, the defendant is given the opportunity to submit evidence to rebut the plaintiff's case.

**Burglary:** breaking and entering a building with the intention to commit a felony.

## C

**California Youth Authority:** a group of people who control prison-like facilities for repeat offenders or youthful offenders who have committed serious crimes.

**Capital offense:** an offense that may be punishable by death or life imprisonment.

**Capital punishment:** the death penalty.

**Case number:** the number assigned to a case upon its filing in court.

**Charge:** the formal accusation of a crime.

**Child abuse:** the neglect or mistreatment of children.

**Child in need of supervision:** a child who is habitually truant, always violating local curfew laws, running away from home, or for some other reason beyond the control of his or her parent(s) or guardian.

**Child snatching:** the act of a divorced or separated parent whereby the parent takes his or her child away from the other parent who has custody of the child.

**Civil action:** a lawsuit brought by one or more individuals against another person, a business, or the government for the purpose of redressing private wrongs.

**Complaint:** the first paper filed in a civil lawsuit which states the wrong done to the plaintiff by the defendant.

**Compulsory education:** the basic right and legal obligation on the part of children to attend school. All states have compulsory education laws and, at a minimum, they usually require that persons between the ages of six and 16 attend school.

**Confession:** an accused person's voluntary admission of wrongdoing.

**Conservator:** a court-appointed custodian of someone's property.

**Conspiracy:** an agreement between two or more persons to commit a crime, along with an act done to begin the crime.

**Contempt of court:** to defy a court's authority. If one is found or held in contempt of court, he or she may be fined, placed in jail, or both.

**Contributing to the delinquency of a minor:** the act of aiding or encouraging improper conduct of a minor.

**Convict:** (1) a person who has been found guilty of a crime and is now in prison; (2) to find a person guilty of a crime or wrongdoing.

**Crime:** an act or failure to act that violates a law for which a penalty (usually a fine, jail, or probation) is set by the state.

**Criminal case:** an action brought by the state or county against an individual, charging the person with committing a crime.

**Criminal justice process:** the system by which government enforces criminal law. It includes everything from the arrest of an individual to the individual's release from control by the state.

**Criminal law:** the branch of law dealing with crimes and their punishment.

## D

**Damages:** money awarded by the court to be paid by a person who has wronged another in a civil law action.

**Death penalty:** a sentence to death for the commission of a serious crime, such as murder.

**Defendant:** the person against whom a claim is made. in a civil suit, the defendant is the person being sued; in a criminal case, the defendant is the person charged with committing a crime.

**Defense:** a denial, answer, or plea disputing the correctness of the charges against a defendant.

**Defense attorney:** a private attorney who is hired by the minor and/or the parents to defend the minor in court.

**Delinquent offender:** a minor who has committed an offense ordinarily punishable by criminal processes. Such offenders are usually processed through the juvenile justice system.

**Dependent child:** (a) a child under the age of majority (18) who is found by a court to have been neglected or abused by his or her parent(s) or guardian(s), and then placed under the protection of the court or appropriate social welfare agency. (b) a child who still depends on his or her parents for financial support, a child who can be claimed as a dependent on an income tax return, or a child who is eligible to receive Aid to Families with Dependent Children (A. F. D. C.).

**Detention:** temporary custody such as being held at the police station or in Juvenile Hall.

**Disposition:** a word used in the Juvenile Justice System for the outcome of a Juvenile Court proceeding; similar to "sentencing" in the adult court.

**District attorney:** an attorney who tries to show that an accused person is guilty. In the Juvenile Court, this deputy decides whether or not to bring the juvenile to court and also recommends a disposition.

**Diversion program:** special programs for handling minors (first offenders) with problems; it is meant to be used by persons such as police, probation officers, and juvenile courts to keep certain juveniles out of further involvement in the Juvenile Justice System.

**Drunk driving:** (Driving while intoxicated) the operation of a motor vehicle while intoxicated (overcome by alcohol to the point of losing control over one's conscious faculties). A drunk person's blood-alcohol concentration is 0.08% or above in California (0.01 % for a minor).

**Due process:** minors and their parents are guaranteed 'due process' by the US Constitution. This means that you will be given advance notice of all hearings and have a right to present your side; legal procedures must follow a set of rules and principles that are meant to guarantee justice and fair play.

## E

**Emancipation:** the legal term used to describe the point at which parents are no longer responsible for their children and children are no longer answerable to their parents. This usually occurs at the age of 18. However, emancipation may sometimes occur earlier if and when the parent and child have agreed to live independently, the child has joined the military, the child has married, or a court has granted an appropriate petition to declare a child emancipated. Emancipation also affects a child's legal rights and responsibilities.

**Embezzlement:** the taking of money or property by a person who has been entrusted with it, for example a bank teller or a company accountant.

**Enjoin:** a court's order to stop some particular wrongful act or conduct.

**Extortion:** taking property illegally by force or threats of harm.

## F

**Felony:** a serious criminal offense punishable by a prison sentence of more than one year.

**Forgery:** the act of making a fake document or altering a real one with the intent to commit fraud.

**Foster home:** the residence or home, other than that of a child's parents', that a child is placed in temporarily by a court or welfare department.

**Foster parents:** a couple or family who take in and care for a child who is without parents or who has been removed from the custody of his or her parents. **G**

**Graffiti:** any unauthorized inscription, word, figure, mark, or design that is written, marked, etched, scratched, drawn, or painted on real or personal property.

**Group home:** a state-licensed home to which minors who have gotten into trouble with the law and do not require a more restrictive environment are sent.

**Guardian:** an adult who has been given the right to make decisions on behalf of a child or a disabled adult. Guardians are also often given custody of the child or children for whom they are responsible.

**Guardian ad litem:** a person appointed by the court specifically to protect the interests of a minor in a lawsuit or other legal proceeding.

## H

**Hate Crime:** any crime committed against a person (or his or her property) because of his or her perceived race, ethnicity, religion, ancestry, national origin, disability, gender, or sexual orientation.

**Hearing:** a constitutionally required formal proceeding where the accused is given notice of charges brought against him or her and where the accused has an opportunity to present a defense.

**Homicide:** the killing of another person. Homicide can be criminal, non-criminal, or negligent.

**Hung jury:** the situation in which a jury cannot reach a unanimous decision.



## I

**Illegitimate child:** a child who is born at a time when his or her parents, although alive, are not married.

**Incest:** the crime of sexual intercourse or cohabitation between a man and woman who are related to each other within the degrees wherein marriage is prohibited by law.

**Incestuous:** sexual relations between close relatives. Relations between parent (including grandparents) and child, siblings or aunt or uncle with niece or nephew are considered incest.

**Incorrigible children:** see 'Child in need of supervision.'

**Infancy:** the legal status of a person considered not yet legally responsible for his or her activities; the time before which a person becomes entitled to the legal rights normally held by citizens.

**Initial hearing:** a preliminary examination of the validity of a youth's arrest, during which the state must prove that an offense was committed and there is reasonable cause to believe the youth committed it. Decisions are made about further detention and legal representation, and a date is set for a hearing on the facts.

**Intent:** determination to achieve a particular end by a particular means.

**Interrogation:** the questioning of a witness or suspected criminal.

## J

**Jail:** a place of short-term confinement for persons convicted of misdemeanors or awaiting trial.

**Jury:** in a legal proceeding, a body of men and women selected to examine certain facts and determine truth.

**Juvenile:** a person not yet considered an adult for the purposes of determining either criminal or civil liability; a minor.

**Juvenile court:** courts established by a state to hear matters involving youngsters under the age of 18 who have either been abused or neglected by their parents, found to be outside the control of their parents, or have committed a crime.

**Juvenile hall:** a locked facility where minors are placed prior to a court hearing.

## K

**Kidnapping:** taking a person against his or her will.

## L

**Larceny:** the unlawful taking of another's property with the intent to steal it. Grand larceny, a felony, is the theft of anything above a certain value; petty larceny, a misdemeanor, is the theft of anything below a certain value.

**Legal defense:** a legally recognized excuse for a defendant's actions, such as implied consent, privilege, and self-defense, which may remove liability for certain offenses.

**Legislation:** laws or statutes that have been enacted by a legislative body.

**Legitimate child:** a child born to parents who are married.

**'Lock-up':** a secured or 'locked' place where the inmates are not free to leave.

**Loitering:** lingering in a public place.

## M

**Malice:** ill will; intent to harm.

**Malicious mischief:** see Vandalism.

**Mandatory sentencing:** laws that require courts to sentence convicted criminals to certain prison terms.

**Manslaughter:** the killing of a person without malice or premeditation, but during the commission of an illegal act.

**Medical Malpractice:** a medical professional's improper or immoral conduct in performance of his or her duties.

**Minor:** a person under the age of majority (under the age of 18 in California).

**Miranda warnings:** rights that a person must be told when arrested or taken into custody by police or other officials. These include the right to remain silent, to contact a lawyer, and to have a free lawyer if the person arrested cannot afford one.

**Misdemeanor:** a criminal offense, less serious than a felony, punishable by a jail sentence of one year or less.

**Mitigating factors:** factors that may lessen the seriousness of an offense. The presence of these factors may be considered by the judge or jury.

**Moral turpitude:** dishonesty or vileness of a high degree.

**Motive:** the reason a person commits a crime.

**Murder:** the unlawful killing of a person with malice aforethought.

## N

**Neglected child:** a child is 'neglected' when his or her parent or custodian fails to provide necessary physical, emotional, medical, or institutional care.

**Negligence:** failure to exercise the care that a reasonable person would exercise in the same circumstances.

## P

**Parental responsibility laws:** statutes in which parents are held responsible for the acts committed by their children.

**Parental rights:** rights to exercise parental control and custody over a child.

**Parole:** release from prison before the full sentence has been served, granted at the discretion of a parole board.

**Partial emancipation:** the legal doctrine that allows minors to keep and spend their own earnings.

**Parties:** the people concerned with or taking part in a pending legal action or lawsuit.

**Paternity:** the state or condition of a father, the relationship of a father or fatherhood.

**Paternity action (suit):** a legal action to determine parentage and often the legal obligation of support.

**Penal code:** a list of criminal offenses and recommended sentences.

**Petition:** a formal written request for something to be done.

**Preponderance of the evidence:** the standard of proof generally used in civil suits. To prevail, the party must provide a greater weight of evidence. This greater weight is based not merely on the type of evidence presented or the number of witnesses, but on the believability and importance of that evidence and their testimony.

**Preventive detention:** holding a person against his or her will because of the likelihood that the individual will commit a crime.

**Principal:** (1) the person who actually commits a crime; (2) the amount of money borrowed or loaned. This amount does not include interest.

**Prison:** a place of confinement for criminals who are serving long-term sentences.

**Probable cause:** a reasonable belief, known personally or through reliable sources, that a person has committed a crime.

**Probation:** a period of time when a minor is under the supervision of a probation officer to make sure court orders against the minor are followed.

**Probation officer (PO):** officers of the court and social workers who work with minors having problems; duties vary from intake to supervision of minors on probation.

**Prosecution:** the process of suing person in a civil case or of bringing a person to trial on criminal charges.

**Prosecutor:** the government's attorney in a criminal case.

**Prostitution:** performing sexual acts for money.

**Prove:** to show with evidence that something exists, is true, or is untrue.

**Public defender:** an attorney who is paid by the county to defend persons without money who are accused of committing crimes.

## R

**Rape:** unlawful sexual intercourse, usually committed by a man with a woman by force and/or without her consent.

**Reasonable person standard:** the idealized standard of how a community expects its members to act. it is based on the degree of care that persons of ordinary prudence would exercise in particular situations.

**Referee/commissioner:** appointed by the juvenile court judge. Has the same power as the judge.

**Rehabilitation:** the process through which a convicted person is changed or reformed, so as not to commit another criminal act.

**Restitution:** money paid to victims by the offender to make up for harm or damage done to victims by the offender.

**Robbery:** the unlawful taking of property from a person's immediate possession by force or threat of force.

## S

**Self-defense:** the right to defend oneself with whatever force is reasonably necessary against an actual or reasonably perceived threat of personal harm.

**Self-incrimination:** giving evidence and answering questions that would tend to subject one to criminal prosecution.

**Sexual harassment:** unwelcome sexual advances, requests for sexual favors, and other unwanted verbal or physical conduct of a sexual nature that usually occurs in the workplace.

**Shoplifting:** a form of larceny in which items are taken from a store without payment or the intention to pay.

**Status offenders:** youth who are charged with being beyond the control of their legal guardians, habitually disobedient, or truant from school, or with committing other acts that would not be crimes if committed by an adult.

**Status offenses:** acts that are illegal if committed by a juvenile (for example, truancy or running away from home).

**Statutes:** laws enacted by legislatures.

**Statute of limitations:** laws that set deadlines for when a lawsuit must be filed in a particular kind of dispute.

**Statutory rape:** an act of sexual intercourse with a minor, not the spouse of the perpetrator, where the victim is under the age of 18, regardless of whether or not he or she consents to the act.

**Stop and frisk:** to "pat down" or search someone whom the police believe is acting suspiciously and who may be carrying a weapon.

## T

**Taggers:** persons who deface property (see "Graffiti").

**Temporary restraining order (TRO):** this is an order issued by a court to prevent a change in the status quo. In interpersonal settings, a TRO is sometimes issued by a court to prevent one person from hitting another person or snatching a child over a custody dispute. A TRO is, however, temporary in that it may be issued without calling together both parties to the dispute. Often, a court will later hold a hearing to see whether the TRO should be made into a permanent injunction.

**Termination of parental rights:** the taking away, by the state, of the rights that parents possess of their children. The rights of parents are terminated when a child is put up for adoption. Parental rights may also be suspended or terminated if a court finds a parent unfit and/or decides to place a child in foster care.

**Throw-away children:** a slang term usually referring to older teenagers, whose parents have refused to continue to care for them and have forced them out of their house. Have also been called "push-outs."

**Transcript:** the written record of a court proceeding.

**Trial courts:** courts that listen to testimony, consider evidence, and decide the facts in a disputed situation.

**Truant:** a pupil who has stayed away from school without permission for a certain period of time.

## U

**Unfit parent:** a parent who has been shown to be unable to care for his or her children usually because he or she has either abused, neglected, or abandoned a child or is of questionable moral character.

## V

**Vandalism:** maliciously defacing, damaging, or destroying someone's real or personal property.

**Victim:** someone who has suffered as the result of some act of another person; for example, in a hold-up the victim is the person who is robbed.

## W

**Ward:** a person incapable of managing his or her affairs for whom the court steps in to make decisions.

**Welfare and Institution Code:** a collection of laws dealing with minors and institutions.

601: minors who are incorrigible (don't follow rules), truant (doesn't go to school), or runaways; often referred to as "status offenders"; would not be a crime for an adult.

602: minors who have violated criminal laws.

**Witness:** a person who has knowledge of facts having to do with a case being tried and who gives testimony.

**Work program:** a program where the court orders a minor to do work on public grounds and facilities on weekends and after school.

**Work release:** the type of sentence in which a defendant is allowed to work in the community but is required to return to custody at night or on weekends.

## Index of Referenced Legal Codes

Throughout this guide, we have identified many laws and ordinances that are relevant to you and your child. Listed below are the code sections for those particular laws, indexed by chapter.

This list is useful if you would like more detailed information on a particular statute or ordinance.

You can find the complete text of these laws in a series of books known as the Annotated California Codes at your local county law library or on the Internet at [www.leginfo.ca.gov](http://www.leginfo.ca.gov).

### ***Abbreviations of Code Sections***

B & PC – Business & Professions Code

CCP—Code of Civil Procedure

CC – Civil Code

Ed. C – Education Code

FC – Family Code

FC App – Family Code Appendix

Gov't. C – Government Code

H & SC – Health and Safety Code

IC – Insurance Code

Lab. C - Labor Code

PC – Penal Code

Prob. C – Probate Code

Rev. & TC – Revenue & Tax Code

VC – Vehicle Code

W & IC – Welfare & Institutions Code

### ***Referenced Codes***

*a*<sup>1</sup> FC § 6502

*a*<sup>2</sup> B& PC § 25659

*a*<sup>3</sup> B& PC § 25662 (a)

*a*<sup>4</sup> B& PC § 25620

*a*<sup>5</sup> B& PC § 25661

*a*<sup>6</sup> B& PC § 25662 (b)

*a*<sup>7</sup> B& PC §§ 25658, 25662 (a)

*a*<sup>8</sup> B& PC §§ 25602.1, 25658

*b*<sup>1</sup> VC § 21212

*b*<sup>2</sup> VC § 21201

*b*<sup>3</sup> VC § 21204

*b*<sup>4</sup> H& SC § 115800

*b*<sup>5</sup> VC §§ 21712 (e), 42000 et seq.

*b*<sup>6</sup> VC §§ 39001-02

*c*<sup>1</sup> DMV form DL 388 or OL 237, 238

*c*<sup>2</sup> VC § 12513

*c*<sup>3</sup> VC § 12650

*c*<sup>4</sup> VC § 12509 (a)(4)



$c^5$ VC § 17708	$c^8$ VC § 23226
$c^6$ VC §§ 16020, 16028	$c^9$ VC § 23224
$c^7$ VC §§ 23223 (a),	
$c^{10}$ VC § 23136	$c^{31}$ CCP § 340.5
$c^{11}$ VC § 23152 (b)	$c^{32}$ CCP § 340.1
$c^{12}$ VC §§ 13353.1, 23136, 23612	$c^{33}$ CCP § 352
$c^{13}$ VC §§ 23104, 23109	$c^{34}$ PC § 26
$c^{14}$ VC §§ 13352, 23109	$c^{35}$ W & IC § 625.5(d)
$c^{15}$ VC §§ 23110-12, 42001.7	
$c^{16}$ VC § 15501	$d^5$ VC § 13202.5
$c^{17}$ VC § 20001-04	$d^6$ VC § 13202.5
$c^{18}$ VC §§ 12500-51, 13553, 14601, 14601.5	$d^7$ H & SC § 11351
$c^{19}$ VC § 23140	$d^8$ H & SC §§ 11353.5, 11353.6
$c^{20}$ VC § 13352	$d^9$ H & SC §§ 11354
$c^{21}$ VC § 13352.3	
$c^{22}$ VC § 23520	$e^1$ FC §§ 7002, 7050
$c^{23}$ VC § 23508	$e^2$ FC § 7050
$c^{24}$ IC § 1861.025	$e^3$ FC § 7140
$c^{25}$ PC § 417.27	$e^4$ FC § 7002 (a), (b)
$c^{26}$ FC §§ 6600, 6601	$e^5$ FC § 7120
	$e^6$ FC § 7121
$c^{36}$ W. & I.C. § 601(a)	
$c^{37}$ W. & I.C. § 625.5(c)	$f^1$ PC § 240
$d^1$ PC § 415	$f^2$ PC § 242
$d^2$ H & SC §§ 11000 et seq.	$f^3$ PC §§ 241, 241.4, 241.6
$d^3$ H & SC §§ 11357-58	$f^4$ PC §§ 241.2, 245-245.5
$d^4$ H & SC §§ 11364-65	$f^5$ PC § 241.2 (a)(2), 245
$c^{27}$ CCP § 340	$f^6$ PC §§ 243, 243.1
$c^{28}$ CCP § 337, 339	$f^{7P}$ PC § 243.2
$c^{29}$ CCP § 338 (b)(c)	
$c^{30}$ CCP § 340.4	
$f^8$ Ed. C §§ 32050-51	$f^9$ PC § 71

$f^{10}$  Ed. C § 44014

$g^1$  PC §§ 186.20 et seq.

$g^2$  PC § 186.22 (b)(1)

$g^3$  PC § 186.22 (f)

$g^4$  PC § 186.22 (e)

$g^5$  PC § 186.22 (a)

$g^6$  PC § 272

$g^7$  PC § 272 (a)(1)

$g^8$  Ed. C § 35183 (b)

$g^9$  Ed. C § 35183 (b)

$g^{10}$  Ed. C § 35183 (d)

$g^{11}$  Ed. C § 35183 (d)

$g^{12}$  Ed. C § 35183 (e)

$g^{13}$  PC § 594 (a)(1)

$g^{14}$  PC §§ 640.5, 640.6, 640.7

$g^{15}$  PC § 594 (e)

$g^{16}$  P.C. § 594 (b)(1)

$g^{17}$  PC § 594 (b)(1)

$g^{18}$  PC § 594 (b)(2)(A)

$g^{19}$  PC § 594 (c)

$g^{20}$  VC § 13202.6 (a)(1)

$g^{21}$  VC § 13202.6 (a)(2)

$g^{22}$  PC § 594 (d)

$g^{23}$  Gov't. C § 38772

$g^{24}$  PC § 490.5

$g^{25}$  Ed. C § 48904 (a)(1)

$g^{26}$  CC § 1714.1

$g^{27}$  PC § 12101

$g^{28}$  PC §§ 12020, 12094, 12520

$g^{29}$  PC §§ 12020, 12094

$g^{30}$  Ed. C § 48915

$g^{31}$  PC § 417

$g^{32}$  PC § 417.4

$g^{33}$  CC § 1714.3

$g^{34}$  PC § 12022(c)

$g^{35}$  PC § 12034(c)

$h^1$  PC § 422.6 (a), (b)  $h^2$  PC § 422.6 (a), (c)  $h^3$  Ed. C § 48900.3

$h^4$  PC § 422.75 (c)

$h^5$  CC § 52

$h^6$  PC § 422.6 (c)

$j^1$  W& IC §§ 300, 360

$j^2$  W & IC § 727 (a)(3)

$j^3$  W& IC § 366.26

$j^4$  W& IC § 602 (b)

$j^5$  W & IC § 707

$j^6$  W& IC § 707

$j^7$  W& IC § 707

$j^8$  W& IC § 607

*J*<sup>9</sup> W& IC §§ 625, 627.5  
*J*<sup>10</sup> W& IC § 626  
*J*<sup>11</sup> W& IC § 207  
*J*<sup>12</sup> W& IC § 631, Cal. Rules of Court, rule 1471  
*J*<sup>13</sup> W& IC §§ 307.4, 316  
*J*<sup>14</sup> W& IC §§ 317, 679, 702.5  
*J*<sup>15</sup> W& IC § 676  
*J*<sup>16</sup> W& IC §§ 725, 727, 727.5, 730.5, 730.6, 730.7  
*J*<sup>17</sup> W& IC § 730  
*J*<sup>18</sup> W& IC § 395, 800  
*J*<sup>19</sup> W& IC § 389; 781  
*J*<sup>20</sup> W& IC § 389; 781

*k*<sup>1</sup> W & IC § 601  
*k*<sup>2</sup> W & IC § 281.5  
*k*<sup>3</sup> FC §§ 6920, 6921, 6924

*l*1 PC § 415  
*l*2 PC § 647  
*l*3 PC § 647 (h)  
*l*4 PC § 647 (f)  
*l*5 PC § 653g  
*l*6 PC §§ 19, 647

*p*<sup>1</sup> PC § 272  
*p*<sup>2</sup> PC § 273 (a)  
*p*<sup>3</sup> PC § 270  
*p*<sup>4</sup> FC § 7500  
*p*<sup>5</sup> FC § 7507  
*p*<sup>6</sup> FC § 6752  
*p*<sup>7</sup> FC § 7502; Prob. C § 3300  
*p*<sup>8</sup> CCP § 376  
*p*<sup>9</sup> PC § 270  
*p*<sup>10</sup> FC § 4053  
*p*<sup>11</sup> FC § 9305

*p*<sup>12</sup> PC § 270  
*p*<sup>13</sup> W & IC § 11477  
*p*<sup>14</sup> W & IC § 903  
*p*<sup>15</sup> W & IC § 903.1  
*p*<sup>16</sup> FC § 3901  
*p*<sup>17</sup> FC § 3900  
*p*<sup>18</sup> FC § 4000  
*p*<sup>19</sup> FC § 4002  
*p*<sup>20</sup> FC § 4500  
*p*<sup>21</sup> FC § 5100  
*p*<sup>22</sup> FC § 5230  
*p*<sup>23</sup> FC § 290  
*p*<sup>24</sup> PC § 270  
*p*<sup>25</sup> FC § 3900  
*p*<sup>26</sup> FC § 9305  
*p*<sup>27</sup> FC § 3950  
*p*<sup>28</sup> FC § 3951  
*p*<sup>29</sup> FC § 6600  
*p*<sup>30</sup> CC § 1714.3  
*p*<sup>31</sup> CC § 1714.1  
*p*<sup>32</sup> PC § 594 (b), (d)  
*p*<sup>33</sup> PC § 594 (c); Gov't. C. § 38772 (b)  
*p*<sup>34</sup> PC § 12403.8 (c)  
*p*<sup>35</sup> Ed. C § 48264.5 (d)(2)  
*p*<sup>36</sup> Ed. C § 48904  
*p*<sup>37</sup> PC § 490.5 (b)  
*p*<sup>38</sup> W & IC § 625.5 (e)  
*p*<sup>39</sup> PC § 148  
*p*<sup>40</sup> PC § 243  
*p*<sup>41</sup> PC § 833  
*p*<sup>42</sup> PC § 833.5  
*p*<sup>43</sup> W & IC § 625  
*p*<sup>44</sup> W & IC § 308 (b)

$p^{45}$  PC § 841  
 $p^{46}$  W & IC § 634  
 $p^{47}$  PC § 1214.1(a)  
 $p^{48}$  FC § 6926  
 $p^{49}$  FC § 6927  
 $p^{50}$  FC § 6929 (b)  
 $p^{51}$  FC § 7050 (e)(1)

$r^1$  PC § 496  
 $r^2$  PC § 496 (a)  
 $r^3$  PC § 496

$s^1$  Ed. C §§ 48900, 48900.2, 48900.3, 48900.4  
 $s^{1a}$  Ed. C § 48900.7  
 $s^2$  Ed. C § 48902  
 $s^3$  Ed. C §§ 48900, 48915  
 $s^4$  Ed. C § 48911, 48914, 48918 - 48924  
 $s^5$  Ed. C § 49001  
 $s^6$  PC § 261.5 (a)  
 $s^7$  PC § 261.5 (d)  
 $s^8$  PC § 261.5  
 $s^9$  PC § 288 (c)(1)  
 $s^{10}$  PC §§ 264, 285; F.C. § 2200  
 $s^{11}$  PC § 288.5  
 $s^{12}$  FC §§ 6920, 6927-28  
 $s^{13}$  Gov't. C § 6254  
 $s^{14}$  B & PC § 22951; P.C. § 308  
 $s^{14A}$  B & PC § 22952 (b)  
 $s^{15}$  B & PC § 22958  
 $s^{16}$  PC § 529.5 (c), (d)  
 $s^{17}$  PC § 484

*s*<sup>18</sup> PC §§ 488, 487, 488

*s*<sup>18A</sup> PC §489

*s*<sup>19</sup> PC § 490

*s*<sup>20</sup> PC §§ 182.5, 186.22

*s*<sup>20A</sup> CC § 1714.1

*s*<sup>21</sup> PC § 502

*s*<sup>22</sup> PC § 506

*s*<sup>23</sup> VC § 10851 (b)

*t*<sup>1</sup> Ed. C § 48200

*t*<sup>2</sup> Ed. C § 48260

*t*<sup>3</sup> Ed. C § 48205

*t*<sup>4</sup> Ed. C. § 48205

*t*<sup>5</sup> Ed. C § 46014

*t*<sup>6</sup> Ed. C § 48205 (b)

*t*<sup>7</sup> Ed. C §§ 48222-25

*t*<sup>8</sup> Ed. C §§ 48260.5, 48290, 48264

*t*<sup>9</sup> Ed. C § 48260.5; V.C. § 13202.7

*t*<sup>10</sup> W & IC § 601

*t*<sup>11</sup> Ed. C §§ 48268-69

*t*<sup>12</sup> Ed. C § 48291

*t*<sup>13</sup> Ed. C § 48293

*t*<sup>14</sup> W & IC § 601

*t*<sup>15</sup> PC § 272

*t*<sup>16</sup> VC § 13202.7

*v*<sup>1</sup> PC § 594

*v*<sup>2</sup> PC § 587

*v*<sup>3</sup> PC § 588 (a)

*v*<sup>4</sup> PC §§ 588 (b), 590, 591, 593, 593 (b), (c)

*v*<sup>5</sup> PC §§ 218, 219.1, 219.2

*v*<sup>6</sup> PC §§ 596, 597, 597.1

*v*<sup>7</sup> PC § 603

*v*<sup>8</sup> PC § 605

*v*<sup>9</sup> PC § 607

*v*<sup>10</sup> PC § 610

*v*<sup>11</sup> PC § 616

*v*<sup>12</sup> PC § 617

*v*<sup>13</sup> PC § 618

*v*<sup>14</sup> PC §§ 622, 622 ½

*v*<sup>15</sup> P C § 148.4

*w*<sup>1</sup> Ed. C § 49111

*w*<sup>2</sup> Ed. C §§ 49112 (c), 49130-31; Lab. C §1391

*w*<sup>3</sup> Ed. C §§ 49117, 49133

*w*<sup>4</sup> Lab. C §§ 1285-1312, 1390-99

*w*<sup>5</sup> 29 U.S.C. § 206; Lab. C § 1182

*w*<sup>6</sup> Lab. C §§ 510, 1182.11, 1197

*(Updated, 2003)*